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Friday
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WASHINGTON, DC

[Two Sessions]

WHEN: October 17 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 94–114–2]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world. All of the fruits and vegetables, as a condition of entry, will be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a U.S. Department of Agriculture inspector. In addition, some of the fruits and vegetables will be required to undergo prescribed treatments for fruit flies or other injurious insects as a condition of entry, or to meet other special conditions. This action will provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction and dissemination of injurious plant pests by imported fruits and vegetables.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Frank E. Cooper or Mr. Peter Grosser, Senior Operations Officers, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, MD 20737–1236; (301) 734–8645.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 through 319.56–8 (referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of injurious insects that are new to or not widely distributed within and throughout the United States.

On May 24, 1995, we published in the **Federal Register** (60 FR 27428–27437, Docket No. 94–114–1) a proposal to amend the regulations by allowing additional fruits and vegetables to be imported into the United States from certain parts of the world under specified conditions. The importation of these fruits and vegetables had been prohibited because of the risk that the fruits and vegetables could introduce injurious insects into the United States. We proposed to allow these importations at the request of various importers and foreign ministries of agriculture, and after conducting pest risk assessments that indicated that the fruits or vegetables could be imported under certain conditions without significant pest risk.

We solicited comments concerning our proposal for 30 days ending June 23, 1995. We received two comments by that date. They were from a State agency and an industry group. Both commenters had reservations to specific provisions of the proposed rule. The comments are discussed below by topic:

Papayas From Belize

Comment: The Animal and Plant Health Inspection Service (APHIS) did not indicate in the proposal how it would ensure that cartons of papayas marked "Not for importation into or distribution in HI" would not enter Hawaii.

Response: Papayas from Belize may not be imported into Hawaii. All importations into Hawaii from foreign countries are inspected by APHIS officials, and any papaya from Belize arriving in Hawaii would be seized or rejected. Belizean papayas shipped from the mainland United States would be intercepted by State of Hawaii Department of Agriculture inspectors, who routinely inspect cargo arriving from the mainland. The State inspectors would inform APHIS of the violation, and APHIS would seize the shipment and determine whether enforcement procedures should be initiated.

Ya Pears From the Peoples Republic of China

Comment: APHIS has not indicated in the proposal how the conditions for the importation of Ya pears from China would be maintained. Also, China has not yet developed a program for pest-free areas for phytosanitary certification, and there is no indication that the current farming and packing practices will lend themselves to the incorporation of a systems approach to attain pest-free status. Should the proposed conditions not be met, what resources does APHIS have to detect pests prior to dissemination in the United States?

Response: The results of APHIS personnel visits to Hebei Province in China to study production and safeguarding procedures for Ya pears led us to propose the requirements explained in the proposal. We believe that the required safeguards will be observed by the Chinese. All shipments will be inspected at the U.S. port of arrival. Any findings of significant quarantine pests will be an indication that the required safeguards are not being applied adequately and will be cause for action by APHIS to ensure that corrective measures are taken. As is our practice, repeated findings of significant quarantine pests will be cause for prohibiting future shipments of the produce. In addition, APHIS intends to make periodic visits to the growing area in Hebei Province to monitor production and safeguarding procedures.

Comment: The agency's pest risk assessment explains that some of the pathogens that attack pears in China differ from those in Japan and Korea. Therefore, the agency's experience with dealing with the disease risk involved in the importation into the United States of produce from Japan and Korea does not account for the added disease risks involved in the importation into the United States of Ya pears from China. The conditions, regulatory capabilities (infrastructure), and differing pests and diseases should be considered when assessing the pest risk of the importation into the United States of Ya pears from China. It should not be assumed by the agency that the systems approach can work for exports from every country.

Response: The pest list does differ between Japan, Korea, and China.

Although the lists are different, we believe that the safeguards are sufficient to exclude the pests that could ordinarily move with the fruit.

Comment: The pest risk assessment for Ya pears from China indicates that *Alternaria alternata,* brown rot, and pear scab are present in China and could be introduced into the United States through the importation of Ya pears. Therefore, APHIS should not allow the importation of Ya pears from China until a detailed plan to prevent the introduction and dissemination of these diseases has been developed and reviewed.

Response: Alternaria alternata is considered a cosmopolitan organism and is widespread within the United States. As such, it falls outside of the scope of the regulatory authority of APHIS. *Alternaria gaisen,* considered by some mycologists to be part of the *Alternaria alternata* species complex, does infect sandpear fruits; however, bagging of the fruits, which will be required for Ya pears imported into the United States from China, prevents infection. In addition, studies in Japan and the United States have shown that the fungus only sporulates in cracked fruits; therefore, we expect it to sporulate only in cracked fruits in China also. Cracked fruits are clearly visible and will be excluded from shipping during packing house operations.

Brown rot and pear scab are reported in China. The bagging of the fruits prevents infection, and the culling and inspections of the fruit in the packing house will exclude from shipping fruits that show signs of rot or scabbing.

Grapes From India

We received one comment concerning the pest risk assessment for grapes from India. In addition, since the publication of the proposed rule, new information has become available that indicates that grapes from India are attacked by a fruit fly, *Bactrocera correcta,* which is not found in the United States. At present, there is no acceptable quarantine treatment for this fruit fly. Therefore, we are taking no action at this time to allow grapes from India to be imported into the United States, and the provisions found in the proposed rule concerning grapes from India are not included in this final rule.

Litchi From Peoples Republic of China

Comment: The litchi proposed for importation into the United States from China presents a risk of introducing *Peronophythora litchii,* which is difficult to detect visually and would present a pest risk to the domestic tomato industry. APHIS should review this pest risk more thoroughly before allowing the importation of litchi. Also, there are no cold treatment facilities on the west coast of the United States authorized to perform the cold treatment designated in the proposed rule for litchi. Where will APHIS require that the cold treatment be performed? Will irradiation be allowed?

Response: Peronophythora litchii causes a white cottony mold to appear on infected fruit. As this mold is quite evident, inspectors can easily identify infected fruit and exclude them from shipping during the packing process. Although this fungus has caused serious losses in Taiwan and China during favorable years for the disease, no field infections on other crops have been reported.

We anticipate that litchi from China and from India will undergo cold treatment en route to the United States aboard ships with cold treatment facilities approved by APHIS. APHIS continues to encourage the development of alternative treatments and will consider irradiation treatment for litchi when procedures and schedules are presented for study.

Lettuce From Israel

Comment: APHIS has not indicated how it will ensure that all of the provisions included in the proposal concerning the importation of lettuce from Israel into the United States are carried out. Also, in the event that the proposed procedures are not followed, APHIS has not indicated the level of resources necessary and available to inspect the product for pests prior to importation into the United States.

Response: The Israeli Ministry of Agriculture will certify on a phytosanitary certificate that the specified conditions have been met. Inspection at the port of entry will also serve to determine whether the conditions were carried out. If pests are found, actions will be taken on the affected shipment, and additional actions can be taken to correct, adjust, or modify the safeguards used to prevent pest infestation.

Many variables can affect the level of resources APHIS can apply to any given program at any given time. APHIS intends to allocate the number of staff hours necessary to inspect Israeli lettuce to provide the level of inspection and enforcement required to protect U.S. agriculture. Apricots, Peaches, Plums, and Nectarines from Zimbabwe

Comment: The proposed conditions for the importation of fruit from Zimbabwe do not adequately address the risk presented by pathogens reported to occur on peaches and nectarines in Zimbabwe. Additionally, there is a risk that *Taphrina mume* could be introduced into the United States on fruit imported from Zimbabwe.

Response: No quarantine-significant pathogens that would move with the fruits from Zimbabwe were identified in the pest risk assessment. *Taphrina mume* has not been reported to occur in Zimbabwe or to infect peaches or nectarines.

Root Crops

Comment: Because low-level nematode infestation cannot be readily detected by visual inspection, APHIS should more adequately address the potential for nematode introduction presented by imported root crops that could be planted or otherwise propagated.

Response: We have long recognized that some products imported for consumption are capable of being propagated and that occasionally individuals, out of curiosity, may plant them. While we do not believe that the extent of this practice makes it a significant pest risk, we have in the past explored three ways of preventing this practice: (a) prohibit the importation of all commodities that could potentially be propagated, (b) treat all commodities capable of propagation with sprout inhibitor, or (c) devitalize the products prior to export. We believe that the first option, prohibition, should be applied only to products that pose pest risks that cannot be mitigated in other ways. We have experimented with the second option, using sprout inhibitors, but they do not offer sufficient quarantine security for high-risk products and are not registered for most products. The third option, devitalization, in most cases renders a product unacceptable for the fresh fruit and vegetable market.

Countries are becoming more and more sophisticated in their production and phytosanitary practices; therefore, the quality of fruits and vegetables in general is increasing. Products are graded and inspected during packing and prior to export, and the products are inspected again upon arrival in the United States. All of this reduces the likelihood of a pest entering the United States. If a person chooses to try to propagate a commodity that has been imported into the United States, that person would likely choose the healthiest-looking material, thus further reducing the probability that a plant pest would be spread. We believe this limited degree of risk is insignificant.

Trapping Program

Comment: In the proposed rule, APHIS has not provided specifics on the Mediterranean fruit fly (Medfly) trapping program conducted within the designated Medfly-free districts. APHIS may want to provide additional discussion in the final rule substantiating the establishment of the pest free zone.

Response: The Medfly trapping techniques, including the type of trap, type of lures, placement of trap, monitoring of trap, etc., used to establish the Medfly-free area in Belize are in accordance with written guidelines patterned after recommendations of the California Department of Food and Agriculture (CDFA) Pest Detection Guide. (To obtain a copy of the CDFA Pest Detection Guide, write to Dr. Isi A. Siddiqui, California Department of Food and Agriculture, 1220 N Street, Sacramento, CA 95814.) Compliance is routinely verified by APHIS personnel.

Treatment Required

Comment: It is essential, given the possible economic impact of fruit fly introduction, that any required treatment be conducted at the point of origin, as opposed to the point of arrival, to ensure that none of the fruit flies are imported into the United States. Also, APHIS should cite its basis for the conclusion that climatic conditions at the port of Wilmington, NC, are unsuitable for the establishment of fruit flies.

Response: APHIS encourages cold treatments in the country of origin or en route to the United States aboard vessels with approved cold treatment facilities. However, our experience shows that cold treatments can be successfully carried out at U.S. ports of arrival without significant risk of fruit fly escape. Therefore, three options are usually available for cold treated fruit: treatment in the country of origin, treatment en route to the United States, and treatment upon arrival in the United States.

When we approved cold treatment at Wilmington, NC, in a final rule published in the **Federal Register** on August 10, 1994 (59 FR 40794–40797, Docket No. 93–121–3), we imposed additional safeguards not required for cold treatment at more northern locations. A detailed explanation of the additional conditions appears in the preamble of the proposed rule published in the **Federal Register** on May 13, 1994 (59 FR 24968–24971, Docket No. 93–121–2). The additional conditions are:

1. Bulk shipments (those shipments which are stowed and unloaded by the case or bin) of fruit arriving for cold treatment must be packaged in fruit fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

2. Bulk and containerized shipments of fruit arriving at the port of Wilmington, NC, for cold treatment must be cold treated within the port, that is, the area over which the Bureau of Customs is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

3. Advance reservations for cold treatment space at the port of Wilmington, NC, must be made prior to the departure of a shipment from its port of origin.

We believe that the conditions established for cold treatment at Wilmington, NC, including these additional conditions, are adequate to prevent the introduction of certain plant pests into the United States.

Pest Risk Assessments

Comment: The pest risk assessments supporting this proposal appear to consist only of a cursory look at the interception histories and a brief review of the available literature. Approval of a number of the commodities proposed for entry should be postponed until additional review can take place.

Response: We believe that the pest risk assessments performed and the safeguards proposed are adequate to prevent the introduction of pests by the commodities proposed for entry. In addition, APHIS is developing a more transparent pest risk assessment process to offer outside reviewers a clearer and more detailed explanation of how we determine pest risk, thereby enhancing public understanding of the pest risk involved with each commodity proposed for entry. This new pest risk assessment process follows the guidelines provided by the international plant protection organizations (e.g. North American Plant Protection Organization and United Nations' Food and Agricultural Organization) and will provide written documentation on the pest risk potential for organisms that rank high for the likelihood of introduction and establishment.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule with the changes noted above.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 601 *et seq.*, we have performed a Final Regulatory Flexibility Analysis, set forth below, regarding the economic impact of this rule on small entities.

This rule amends the regulations governing the importation of fruits and vegetables by allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain foreign countries and localities under specified conditions. The importation of these fruits and vegetables had been prohibited because of the risk that they could have introduced injurious plant pests into the United States. This final rule revises the status of certain commodities from certain countries and localities, allowing their importation into the United States for the first time.

These changes are based on pest risk assessments that were conducted by APHIS at the request of various importers and foreign ministries of agriculture. The pest risk assessments indicate that the fruits or vegetables listed in this rule can, under certain conditions, be imported into the United States without significant pest risk. All of the fruits and vegetables, as a condition of entry, will be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a USDA inspector. In addition, some of the fruits and vegetables will be required to undergo mandatory treatment for fruit flies or other injurious insects as a condition of entry, or to meet other special conditions. This action will provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction into the United States of injurious plant pests by imported fruits and vegetables. Papayas from Belize

The United States produced 71.3 million pounds of papayas in 1993. Papayas are produced commercially on approximately 300 farms, the majority of which are in Hawaii. Nearly 65 percent of those farms are owned by individuals whose major occupation is not farming, while the balance are operated by individuals whose major occupation is farming. All of the farms are considered to be small entities according to Small Business Administration (SBA) size standards.

The United States imported 31.3 million pounds of papayas, valued at $8,883,000, in 1993. Most of the imported papayas came from Mexico (66.6 percent), Jamaica (14.4 percent), and Belize (13.7 percent). The United States exported 16.7 million pounds of fresh papayas, worth $14,245,000, in 1993. The major importers were Japan (73.4 percent) and Canada (24.6 percent). Almost all exports of domestically grown papayas are from Hawaii, while all imports of foreign-origin papayas come into the continental United States.

The total annual production of papayas in Belize is approximately 4.5 million pounds. Its current exports account for about 4.2 million pounds. The additional amount expected to be exported to the United States will be approximately 300,000 pounds of fresh papayas. Even if all the available supply were exported to the United States, it will increase the U.S. supply of papayas by only about 0.34 percent. A 0.34 percent increase in supply is unlikely to have any impact on prices or on producers or consumers.

Cantaloupes From Brazil

The United States produced about 1,910 million pounds of cantaloupes, with a total value of $310 million, in 1993. Cantaloupes are produced commercially on about 7,500 farms, nearly 97 percent of which are considered to be small entities, according to SBA size standards. The United States is a net importer of cantaloupes. Imports totaled approximately 458 million pounds of cantaloupes. The major sources of imported cantaloupes include Mexico (32.8 percent), Honduras (26 percent), Costa Rica (17.5 percent), Guatemala (16 percent), and the Dominican Republic (2.8 percent). There were 116 million pounds of cantaloupes exported from the United States in 1993, of which nearly 95 percent went to Canada, while about 4 percent went to Mexico.

The commercial production of cantaloupe is in the infant stage in Brazil. Most of the Brazilian production is concentrated in the states of Rio Grande do Norte and São Paulo. Production occurs mainly during the months of October through March, while U.S. production occurs during the months of May through September. Thus, any export from Brazil will be supplementary to, rather than competitive with, the U.S. supply. Total production of cantaloupes in Brazil was about 5,000 metric tons, or 11 million pounds, in 1994. Currently all cantaloupe production in Brazil is for domestic consumption. However, even if all Brazilian production were to be exported to the United States, the U.S. cantaloupe supply will increase by less than 0.5 percent. Because this final rule will allow the importation of cantaloupe from only part of Brazil—that area considered by APHIS to be free of the South American cucurbit fly—any increase in the U.S. cantaloupe supply will be even smaller. Such an increase will not be expected to impact U.S. producer prices.

Ya Pear From the Peoples Republic of China

The United States produced 860,000 metric tons (1,895 million pounds) of pears in 1993. The United States is a net exporter of pears, having exported 244 million pounds and imported 143 million pounds in 1993. Most of the pears imported into the United States came from Chile (57.3 percent), Argentina (30.4 percent), South Africa (6.1 percent), and New Zealand (3.9 percent). The main importers of U.S. pears are Canada (32.9 percent) and Mexico (34.9 percent), with the remaining quantities distributed among 45 destinations. There are approximately 9,800 farms producing pears in the United States, about 98 percent of which are considered to be small entities, according to SBA size standards.

China produced about 30,000 metric tons (or 66 million pounds) of Ya pears in 1993. It exported about 5,700 metric tons (or 12,562,800 pounds). Exports are to several countries in Europe, the Middle East, and Southeast Asia. The Ya pears that will be imported from the Peoples Republic of China are of a different variety than pears produced in the United States; because they are considered to be different products, they are not expected to be competitive with domestically grown pears.

Litchi From the Peoples Republic of China

The U.S. produced about 700,000 pounds of Litchi in 1993. There are 205 farms that produced litchi, most of which are considered to be small entities according to SBA criteria.

China produced approximately 27,000 metric tons (or 59.5 million pounds) of litchi in 1994, exporting about 25 percent (about 15 million pounds) of its production. Most of China's litchi exports went to several countries in Western Europe, the Middle East, and Southeast Asia, as well as to Canada. What proportion of China's domestic litchi production will be exported to the United States is not clear. In the event that a significant proportion of China's production is exported to the United States, U.S. producers will most likely be negatively impacted in the short run, since the increased supply will drive the market price of litchi down. U.S. consumers, on the other hand, will benefit from the lower price as well as the increased choice. In the long run, as a result of foreign competition in the U.S. litchi market, more competitive and cost-effective producers may emerge. Lower prices may also result in an increased demand for litchi. Which of these effects will outweigh the other cannot be stated definitely.

Basil From Ecuador and El Salvador

The United States imported 5,397,091 pounds of fresh or dried basil in 1993 (the ratio of fresh to dried cannot be ascertained). The major sources of import were Egypt (77.7 percent), Mexico (16.1 percent), France (2.2 percent), and Taiwan (1.2 percent). No information was obtained on potential production and imports of basil from Ecuador and El Salvador.

Pak Choi From Jamaica

There are no published data on the U.S. production of pak choi and no record of trade. Jamaica's current production of pak choi is estimated to be 3,825 metric tons (8.43 million pounds). Most production takes place between January and April. Although the exact amount that will be shipped to the United States is not known, approximately 50–75 percent of total production is expected to be exported to the United States. This is expected to expand the variety of choices available to vegetable consumers.

Chives From Israel

Israel produces approximately 100 metric tons of chives. Production takes place mainly from October to the end of March. Currently about 95 percent of production is exported to Europe. About 20 to 40 metric tons is expected to be exporter to the United States. Both producer prices and consumer prices will likely be unaffected by the importation of chives from Israel.

Dill From Israel

The United States imported 1,828,359 pounds of dill in 1993 (trade records do not clearly indicate whether the dill was fresh or dried). The major sources were India (68 percent), Pakistan (13.2 percent), Egypt (10 percent), Sweden (3.2 percent), and Turkey (2.5 percent). The United States is a net importer of dill. Israel produced about 520 metric tons (1,146,000 pounds) of dill in 1994 and exported about 46 metric tons of dill during the same period. Israel expects that it will export about 30 metric tons of dill to the United States within the next 3 to 5 years. Both producer prices and consumer prices will likely be unaffected by the importation of dill from Israel.

Lettuce From Israel

Total U.S. production of head, leaf, and romaine lettuce in 1993 was 3,756,350 metric tons (or 8,279 million pounds). There are approximately 2,660 producers of lettuce in the United States, about 97 percent of which are considered to be small entities according to SBA size standards.

The United States is a net exporter of lettuce. It imported 32,738,000 pounds of lettuce in 1993, mainly from Mexico and Canada, which together accounted for 99.2 percent of the imports. The United States exported 693,354,000 pounds of lettuce in 1993. Canada received approximately 82 percent of those exports, while the remaining destinations were highly varied.

Israel produced about 10 million pounds of insect-free lettuce, which is grown inside insect-proof screenhouses, during 1993. About 10 percent of the production is exported to Europe and the rest is consumed domestically. The amount of lettuce that will be exported to the United States is expected to be about 1,600,000 pounds, which represents less than 0.02 percent of U.S. production. This amount will not have a significant impact upon U.S. market supply. Additionally, the marketing target for this lettuce, both in Israel's domestic market as well as in the export market, is the ultra-orthodox religious community, members of which will not consume lettuce produced in any other way. Importation of this specialty product is not expected to compete with domestic production. Both producer prices and consumer prices will likely be unaffected by the importation of insect-free lettuce from Israel.

Radishes From The Netherlands

The United States produced about 122.4 million pounds of radishes in 1993. Radishes are produced on about 760 farms, all of which are considered to be small entities. The United States is a net importer of radishes and it imported 35,121,976 pounds of fresh and chilled (the proportion of fresh to chilled cannot be ascertained) radishes in 1993. Over 94 percent of these imported radishes came from Mexico and 5.5 percent from Canada.

The Netherlands currently produces about 68 million pounds of radishes. Exports are expected to increase in stages, from 1.1 million pounds in the first year, to 2.2 million pounds during the second year, to about 4.4 million pounds (about 3 percent of U.S. supply) the third year and thereafter. Exports of radishes are expected to be spread equally over a 12-month period, with no significant peak period.

Oca From New Zealand

There is no known commercial production of oca in the United States. Additionally, there is no record of oca imports into the United States. Oca is a specialty crop and only minor production is carried on in New Zealand. Most production occurs between the months of March and October. Annual production is about 110,000 pounds. Current oca exports from New Zealand to the rest of the world equal about 440 pounds. Allowing the importation of oca from New Zealand into the United States will provide additional choice to vegetable consumers.

Apricots, Peaches, Plums, and Nectarines From Zimbabwe

In 1993 the United States produced 87,430 metric tons (192.7 million pounds) of apricots on 3,353 farms; 1,130,00 metric tons (2,490.6 million pounds) of peaches on 19,106 farms; 182,395 metric tons (402 million pounds) of nectarines on 2,488 farms; and 176,710 metric tons (390 million pounds) of plums on 8,006 farms. About 98 percent of these farms are considered to be small entities according to SBA size standards.

The United States is a net exporter of all four of these commodities. Imports of these four commodities into the United States are largely from Chile, while most of the U.S. exports are destined for Canada, Mexico, Taiwan, Hong Kong, and the United Kingdom. Although relevant volume data is not available, the addition of Zimbabwe as a new trading partner in apricots, peaches, plums, and nectarines is unlikely to shift the favorable balance of trade that the United States currently enjoys for these four commodities.

Summary

The United States produces large amounts of grapes, cantaloupes, pears, papayas and radishes. The importations of these and other listed commodities will likely increase supply. However, since potential imports will represent a very small proportion of the total domestic production of each product, no significant negative impact on U.S. producers is expected from such importations. Although increased supply generally results in lower prices, no information is currently available about the magnitude of price responses to changes in supply. Overall, the benefits to consumers of any resulting price decline will likely outweigh the small losses to producers. Additionally, importation of oca and pak choi will increase the availability of new products. Both oca and pak choi have a limited market and are unlikely to compete with other products. Similarly, the Ya pears and cantaloupes for importation are also unlikely to compete with other products. Ya pears are a different variety than any domestically produced pear, while cantaloupes from Brazil will be imported during the off season for U.S. cantaloupes. Other products such as basil and dill are very minor products. Some of these products are grown to supplement other farm income.

The aggregate economic impact of this rule is expected to be positive. U.S. consumers will benefit from a greater availability of fruits and vegetables. U.S. importers will also benefit from a greater availability of fruits and vegetables to import.

The alternative to this final rule was to make no changes in the fruits and vegetables regulations. After consideration, we rejected this alternative since there was no pest risk reason to maintain the prohibitions on the affected produce.

In the course of rulemaking, we came across evidence that indicated that the importation of grapes from India posed a significant risk of plant pest introduction, and, therefore, we are continuing to prohibit the importation of grapes from India. If we had come across evidence indicating that the importation of any of the other concerned fruits or vegetables would pose a significant risk of plant pest introduction, we would have considered either developing alternative requirements regarding that importation or continuing to prohibit the importation of that fruit or vegetable. However, our pest risk assessments and our review of public comments on the proposal indicated that importation of

any of the concerned fruits and vegetables other than grapes from India would not pose a significant risk of introducing or disseminating plant pests.

Executive Order 12778

This rule allows certain fruits and vegetables to be imported into the United States from certain parts of the world. State and local laws and regulations regarding the importation of fruits and vegetables under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public, and will remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for the conclusion that the importation of fruits and vegetables under the conditions specified in this rule will not present a significant risk of introducing or disseminating plant pests and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies may be obtained by writing to the individuals listed under FOR FURTHER INFORMATION CONTACT.

The regulations of the Council on Environmental Quality that implement NEPA require preparation of environmental documentation for all actions that are not categorically excluded by agencies in accordance with 40 CFR 1501.4(b). In a final rule published by APHIS on February 1, 1995, and effective March 3, 1995, APHIS categorically excluded a number of actions for the purposes of NEPA. This rule meets the criteria for categorical exclusion. Accordingly, this rule (initiated prior to the effective date of the agency's NEPA procedures), as well as future amendments in this regulatory series, are categorically excluded.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR parts 300 and 319 are amended as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 continues to read as follows:

Authority: 7 U.S.C. 150ee, 154, 161, 162, and 167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 300.1, paragraph (a) is revised to read as follows:

§ 300.1 Materials incorporated by reference; availability.

(a) *Plant Protection and Quarantine Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and includes all revisions through September 1995, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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PART 319—FOREIGN QUARANTINE NOTICES

3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

4. In § 319.56–2t, the table is amended by adding, in alphabetical order, the following:

§ 319.56–2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
*	*	*	*
Belize			
*	*	*	*
	Papaya	*Carica papaya*	Fruit (Must be accompanied by a phytosanitary certificate issued by the Belizean department of agriculture stating that the fruit originated in the district of Cayo, Corozal, or Orange Walk. Papayas from other districts enterable only with treatment—see § 319.56–2x). Prohibited entry into Hawaii due to *Toxotrypana curvicauda*. Cartons in which fruit is packed must be stamped "Not for importation into or distribution within HI."
*	*	*	*
Ecuador			

Country/locality	Common name	Botanical name	Plant part(s)
*	*	*	*
	Basil	*Ocimum* spp.	Above ground parts.
*	*	*	*
El Salvador	Basil	*Ocimum* spp.	Above ground parts.
*	*	*	*
Israel			
*	*	*	*
	Chives	*Allium schoenoprasum*	Leaf.
	Dill	*Anethum graveolens*	Above ground parts.
*	*	*	*
Jamaica			
*	*	*	*
	Pak choi	*Brassica chinensis*	Leaf and stem.
*	*	*	*
Netherlands	Radish	*Raphanus sativus*	Root.
New Zealand			
*	*	*	*
	Oca	*Oxalis tuberosa*	Tuber.
*	*	*	*

5. In § 319.56–2u, the section heading is revised and paragraph (a) is added to read as follows:

§ 319.56–2u Conditions governing the entry of lettuce and peppers from Israel.

(a) Lettuce may be imported into the United States from Israel without fumigation for leafminers, thrips, and *Sminthuris viridis* only under the following conditions:

(1) *Growing conditions.* (i) The lettuce must be grown in insect-proof houses covered with 50 mesh screens, double self-closing doors, and hard walks (no soil) between the beds;

(ii) The lettuce must be grown in growing media that has been sterilized by steam or chemical means;

(iii) The lettuce must be inspected during its active growth phase and the inspection must be monitored by a representative of the Israeli Ministry of Agriculture;

(iv) The crop must be protected with sticky traps and prophylactic sprays approved for the crop by Israel;

(v) The lettuce must be moved to an insect-proof packing house at night in plastic containers covered by 50 mesh screens;

(vi) The lettuce must be packed in an insect-proof packing house, individually packed in transparent plastic bags, packed in cartons, placed on pallets, and then covered with shrink wrapping; and

(vii) The lettuce must be transported to the airport in a closed refrigerated truck for shipment to the United States.

(2) Each shipment of lettuce must be accompanied by a phytosanitary certificate issued by the Israeli Ministry of Agriculture stating that the conditions of paragraph (a)(1) of this section have been met.

* * * * *

6. In § 319.56–2x, paragraph (a) is amended as follows:

a. In the table, in the entry for Israel, the entry for lettuce is amended in the fourth column under the heading *Plant part(s)* by adding the words "(Treatment for leafminers, thrips, and *Sminthuris viridis* not required if the lettuce is imported in accordance with § 319.56–2u(a))" after the word "Leaf".

b. The table is amended by adding, in alphabetical order, the following:

§ 319.56–2x Administrative instructions; conditions governing the entry of certain fruits and vegetables for which treatment is required.

(a) * * *

Country/locality	Common name	Botanical name	Plant part(s)
*	*	*	*
Belize	Papaya	*Carica papaya*	Fruit (Treatment for Medfly not required for fruit grown in the districts of Cayo, Corozal, and Orange Walk - see § 319.56–2t). Papayas prohibited entry into Hawaii due to *Toxotrypana curvicauda*. Cartons in which fruit is packed must be stamped "Not for importation into or distribution in HI".
*	*	*	*
China	Litchi	*Litchi chinensis*	Fruit (Prohibited entry into Florida due to litchi rust mite. Cartons in which litchi are packed must be stamped "Not for importation into or distribution in FL").

Country/locality	Common name	Botanical name	Plant part(s)
*	*	*	*
India	Litchi	*Litchi chinensis*	Fruit (Prohibited entry into Florida due to litchi rust mite. Cartons in which litchi are packed must be stamped "Not for importation into or distribution in FL").
*	*	*	*
Zimbabwe			
*	*	*	*
	Apricot	*Prunus armeniaca*	Fruit.
*	*	*	*
	Nectarine	*Prunus persica*	Fruit.
	Peach	*Prunus persica*	Fruit.
*	*	*	*
	Plum	*Prunus domestica*	Fruit.

§ 319.56–2aa [Amended]

7. In § 319.56–2aa, the section heading and the introductory text are amended by adding the words "and cantaloupe" after the word "melons".

8. Section 319.56–2aa is amended by adding the words "or cantaloupe" after the word "melons" in the following places:

(a) In paragraph (a) in the first sentence and both times it appears in the second sentence.

(b) In paragraph (b).

(c) In paragraph (c).

9. A new § 319.56–2ee is added to read as follows:

§ 319.56–2ee Administrative instructions: conditions governing the entry of Ya variety pears from China.

Ya variety pears may be imported into the United States from China only under the following conditions:

(a) *Growing and harvest conditions.* (1) The pears must have been grown by growers registered with the Chinese Ministry of Agriculture in an APHIS-approved export growing area in Hebei Province.

(2) Field inspections for signs of pest infestation must be conducted by the Chinese Ministry of Agriculture during the growing season.

(3) The registered growers shall be responsible for following the phytosanitary measures agreed upon by APHIS and the Chinese Ministry of Agriculture, including applying pesticides to reduce the pest population and bagging the pears on the trees to reduce the opportunity for pests to attack the fruit during the growing season. The bags must remain on the pears through the harvest and during their movement to the packing house.

(4) The packing houses in which the pears are prepared for exportation shall not be used for any fruit other than Ya variety pears from registered growers during the pear export season. The packing houses shall accept only those pears that are in intact bags as required by paragraph (a)(3) of this section. The pears must be loaded into containers at the packing house and the containers then sealed before movement to the port of export.

(b) *Treatment.* The pears must be cold treated for *Bactrocera dorsalis* in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

(c) Each shipment of pears must be accompanied by a phytosanitary certificate issued by the Chinese Ministry of Agriculture stating that the conditions of paragraphs (a) and (b) of this section have been met.

Done in Washington, DC, this 26th day of September 1995.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–24332 Filed 9–28–95; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 235, 286 and 299

[INS No. 1675–94]

RIN 1115–AD82

Collection of Fees Under the Dedicated Commuter Lane Program; Port Passenger Accelerated Service System (PORTPASS) Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service (Service) regulations: To allow for implementation of additional land border inspection fee projects designed to facilitate the entry of identified, low-risk, legitimate border crossers on the northern border; to allow for the implementation of a pilot dedicated commuter lane (DCL) to facilitate the entry of identified, low-risk, legitimate border crossers on the California-Mexico border; to incorporate into 8 CFR 235.13 those provisions currently set forth in 8 CFR 286.8 pertaining to port designations and inspections of persons applying for admission to the United States; to increase the pool of eligible participants in pilot projects; and to clarify fee and application requirements of project participants. This rule is necessary to enhance inspection services at land border Ports-of-Entry (POEs) on the northern border and on the California-Mexico border, while still safeguarding those borders.

DATES: This interim rule is effective September 29, 1995. Written comments must be received on or before November 28, 1995.

ADDRESSES: Please submit written comments, in triplicate, to the Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536, Attn: Public Comment Clerk. To ensure proper handling, please reference INS No. 1675–94 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Robert A. Mocny, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street, NW., Room 7228, Washington, DC 20536, telephone (202) 514–3275.

SUPPLEMENTARY INFORMATION: The provisions of Public Law 101–515, dated November 5, 1990, authorized the establishment of pilot projects at land border POEs for which a fee may be charged and collected for inspection services provided at land border POEs. The implementing regulation which established pilot programs for the charging of a land border user fee for inspection services was published by the Service on May 13, 1991, at 56 FR 21917–21920. The interim rule placed all eligibility requirements, application processes, and compliance requirements pertaining to inspection user fees in § 286.6.

All land border pilot projects were originally scheduled to terminate on September 30, 1993. This deadline was extended to September 30, 1996, by Public Law 103–121, October 27, 1993. Public Law 103–121 also limited land border pilot projects to the northern border of the United States. On August 26, 1994, Congress passed Public Law 103–217, permitting land border pilot projects on the California-Mexico border. This interim rule, therefore, also amends Service regulations as necessary to implement a pilot DCL on the California-Mexico border.

In addition to adding a variety of border inspection pilot projects to selected POEs on the northern and southern land borders, this rule will move application and eligibility requirements for those persons seeking to participate in any of the pilot projects to part 235 of this chapter. By expanding and testing pilot projects on land borders, the entry of low-risk, legitimate border crossers will be facilitated and integrity of the United States land borders maintained.

Port Passenger Accelerated Service System (PORTPASS) Program

This rule seeks to expand the testing of land border inspection pilot programs, hereinafter collectively known as the Port Passenger Accelerated Service System (PORTPASS) Program. It will add a new § 235.13, in which general criteria used by the Service to establish pilot inspection programs on the northern and California-Mexico border will be set forth. PORTPASS program eligibility requirements, application procedures, and compliance requirements will be included in the new § 235.13 because these program elements are inspection functions. The present provisions in § 286.8, relating to the collection of land border inspection pilot program fees, will be retained in the immigration user fee section only for the purposes of clarity and uniformity.

By identifying eligible, low-risk border crossers and providing a means for rapid entry of those individuals into the United States, PORTPASS will lessen the time required for all persons to cross the border at large POEs. PORTPASS will also benefit those persons who typically use the smaller, more geographically remote POEs which have limited hours of operation by designating certain POEs as Automated Permit Ports (APPs). Eligible persons who apply for, and are approved for use of, an APP may enter the United States when the APP is not staffed.

Participation in PORTPASS, including advance screening, inspection and identification, and subsequent lawful entry through a DCL or APP by an enrolled participant, will satisfy the reporting requirement of 8 CFR 235.1(a), which states that "[a]pplication to enter the United States shall be made in person to an immigration officer at a U.S. port of entry enumerated in 8 CFR part 100 at a time when the immigration office at the port is open for inspection."

PORTPASS participants will not be permitted to import merchandise or transport controlled or restricted items through the PORTPASS program. Violation of the rules governing the PORTPASS program, or violating any immigration, customs, agricultural or other law or regulation, may result in revocation of the permit access authorization and other sanctions, including, but not limited to, criminal and/or administrative prosecution and deportation, seizure of goods and/or vehicles.

The Form I–823, entitled, "Application—Dedicated Commuter Lane Program," has been revised and retitled to, "Application—Inspections Facilitation Program." Each applicant applying for use of a Dedicated Commuter Lane as part of the PORTPASS program on the northern or California-Mexico border will be required to file the new form and submit the required application fee, currently $25. Under certain circumstances, the $25 application fee may be waived by the district director having jurisdiction over the POE where the applicant requests access. This rule will also amend §§ 299.1 and 299.5 to reflect the change in the title of the application. In establishing the Land Border Inspection Pilot Program, Congress identified the need to counterbalance the inspection of passengers and vehicles with the need to halt the flow of illegal drugs and illegal aliens into the United States. Therefore, in addition to filing the I–823, applicants may be required to submit fingerprints in order to determine eligibility as a low-risk border crosser. If a fingerprint check is required, the applicant will be assessed the additional processing fee.

This rule expands the pool of eligible persons who may be permitted to use the PORTPASS system. One of the stated purposes of the land border inspections pilot program is the alleviation of traffic congestion at land border POEs. Therefore, it is necessary to allow the greatest number of identified, low-risk border crossers to participate. Currently, only citizens and legal permanent residents of the United States and citizens of Canada and landed immigrants of Canada who are citizens of the commonwealth nations are eligible applicants for the DCL project on the northern border. This rule would also make other non-immigrants as determined by the Commissioner of the Service, eligible for participation in all PORTPASS projects. Many third-country citizens and nationals are admitted to the United States for extended periods of time and may live in the United States but commute across the border to work, attend school, or conduct business. Third-country nationals who are citizens of countries other than the commonwealth nations are admitted to Canada as permanent residents and may also require access to the United States for similar purposes. Through the application process set forth in the regulation, admissibility and suitability of an applicant for entry to the United States will readily be determined. The application process will be more thorough than that required by any person who applies for admission at a land border POE, and will include a check of computer databases. Additionally, each applicant will be personally inspected and positively identified by an immigration officer to further determine admissibility prior to approval of his or her application. The applicant will also be required to permit random checks and inspections to be conducted by the Service at any time or location, to ensure compliance.

Currently, only the principal applicant must pay the required fee upon approval for the DCL application, although other persons may be listed on the principal's application. This rule will amend the regulation by requiring a separate application and application fee from all applicants to a PORTPASS project, including DCL programs

currently operable. A family cap of $50, family defined to include husband, wife and/or children under the age of 18 years of age, will be imposed so as to not unduly burden families who often travel together across the border. Applicants under the age of 14 will be required to complete and submit the application, but will not be required to pay the application fee. Additionally, a "system costs fee" will be assessed to approved applicants who wish to participate in the system to cover the costs of additional technology. Information about the fee, including the amount, will be included in publications made available to the public prior to and/or during the application process. Law enforcement and security concerns peculiar to the southern border of the United States, in addition to the additional documentation required of Mexican nationals by the Immigration and Nationality Act, augments the degree that specialized devices, decals, technologies, and other methods are necessary to inspect applicants for entry. The use of technology , decals, and other devices or methods used to identify and inspect persons through DCL's on the southern border increases the cost to the INS of a DCL on that border. By charging a system costs fee for each vehicle using the DCL, the cost of operating the DCL will be fairly distributed among users of the DCL. All revenue generated by the PORTPASS program will directly support inspections on the land border, and facilitate traffic flow through designated POEs. Fees collected will cover the costs of:

(1) Hiring additional immigration inspectors, including all associated personnel costs;

(2) Expanding, operating and maintaining information systems for nonimmigrant control;

(3) Construction costs, including those associated with the addition of new primary traffic lanes (with the concurrence of the General Services Administration);

(4) Procuring detection devices and conducting training in the identification of fraudulent documents used by applicants for illegal entry into the United States;

(5) Other costs associated with the operation of the PORTPASS program; and

(6) Costs associated with the administration of the Land Border Inspection Fee Account.

The Service's implementation of this rule a an interim rule, with provision for post-promulgation public comment, is based on the "good cause" exception found at 5 U.S.C. 553(d)(3). The reason and necessity for immediate implementation of this interim rule are as follows: Expanding the pilot program will directly benefit the traveling public by expediting their entry into the United States. In order to evaluate the effectiveness and utility of the PORTPASS project, and make a determination whether to continue and/or expand such projects, data must be collected. Pilot projects are due to expire September 30, 1996. Therefore, it is in the best interest of the traveling public to expand the land border user fee pilot program as soon as possible. All pilot projects are focused on the traveling public as customers and are designed to directly benefit large populations. Proceeding with an interim regulation at this time will allow the affected agencies and the public to gain maximum benefits from the pilot program.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities because of the following factors. The rule applies to individuals, not small entities, and provides a clear benefit to participants by allowing expeditious passage through a POE. Although there is a fee charged for this service, participation is voluntary.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulations proposed herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12606

The Commissioner of the Immigration and Naturalization Service certifies that she has addressed this rule in light of the criteria in Executive Order 12606 and has determined that it will have no effect on family well-being.

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance number for this collection is contained in 8 CFR 299.5, Display of control numbers.

List of Subjects

8 CFR Part 103

Administrative practice and procedures, Aliens, Authority delegations (Government agencies), Freedom of Information, Privacy Act, Reporting and recordkeeping requirements.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Passport and visas.

8 CFR Part 286

Fees, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 299

Administrative practice and procedure, Aliens, Forms, Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552; 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by revising the entry for "Form I–823", to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

Form I–823. For application to an Inspections Facilitation Program under section 286 of the Act—$25.00, with the maximum amount of $50.00 payable by a family (husband, wife, and minor children under 18 years of age). This fee may be waived for applicants seeking

access through an Automated Permit Port (APP) on the northern border. If fingerprints are required, a separate fingerprint processing fee will be charged.

* * * * *

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

3. The authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, and 1252.

§ 235.1 [Amended]

4. In § 235.1, paragraph (a) is amended by:

(a) Adding the word "either" between the words "made" and "in person", and by

(b) Removing the period after the word "inspection" and adding the phrase "or as provided in § 235.13."

5. A new § 235.13 is added to read as follows:

§ 235.13 Automated inspection services.

(a) *PORTPASS Program.* (1) *Definitions.* (i) *Port Passenger Accelerated Service System (PORTPASS).* A system in which certain ports-of-entry (POEs) are identified and designated by the Service as providing access to the United States for a group of identified, low-risk, border crossers. Participants in the PORTPASS program are inspected, identified, and screened in advance of approval for participation in the program by an immigration officer, and may apply to enter the United States through a dedicated commuter lane (DCL) or through an automated permit port (APP). Such advance inspection and identification, when the enrolled participant also satisfies the conditions and requirements set forth in § 235.13(b), satisfies the reporting requirements of § 235.1(a). Each use of the PORTPASS system constitutes a separate application for entry by the program participant.

(ii) *Automated Permit Port (APP).* A POE designated by the Service to provide access to the United States by an identified, low-risk, border crosser through the use of automation when the POE is not staffed. An APP has limited hours of operation and is located at a remote location on a land border. This program is limited to the northern border of the United States.

(iii) *Dedicated Commuter Lane (DCL).* A special lane set apart from the normal flow of traffic at a busier land border POE which allows an accelerated inspection for identified, low-risk travelers. This program is limited to the northern border of the United States and the California-Mexico border.

(iv) *System costs fee.* A fee charged to participants to cover the cost of implementing the PORTPASS system.

(2) *Designation of POEs for PORTPASS access.* The following criteria shall be used by the Service in the selection of a POE if classifying that POE as having PORTPASS access under the pilot program:

(i) The location has an identifiable group of low-risk border crossers;

(ii) The institution of PORTPASS access will not significantly inhibit normal traffic flow;

(iii) The POE selected for access via a DCL has a sufficient number of Service personnel to perform primary and secondary inspection functions.

(3) *General eligibility requirements for PORTPASS program applicants.* Applicants must be citizens or lawful permanent residents of the United States, or other non-immigrants as determined eligible by the Commissioner of the Service. Non-United States citizens must meet all applicable documentary and entry eligibility requirements of the Act. Applicants must agree to furnish all information requested on the application, and must agree to terms set forth for use of the PORTPASS program. Notwithstanding the provisions of 8 CFR part 264, applicants may be required to submit fingerprints on Form FD–258 or in the manner prescribed by the Service for the purpose of determining eligibility for participation in the PORTPASS program.

(4) *Application.* (i) Application for PORTPASS access shall be made on Form I–823, Application—Inspections Facilitation Program. Applications may be submitted during regular working hours at the port-of-entry having jurisdiction over the port-of-entry for which the applicant requests access. Applications may also be submitted by mail. Each applicant must present himself or herself for inspection and positive identification prior to approval of the application. Each person seeking PORTPASS access must file a separate application."

(ii) Applications must be supported by evidence of citizenship, and, in the case of lawful permanent residents of the United States, evidence of legal permanent resident status in the United States. Evidence of residency must be submitted by all applicants. Alien applicants requiring a valid visa must be in possession of such documentation and any other documentation as required by the Act at the time of the application, at the time of each entry, and at all times while present in the United States.

(iii) A completed application must be accompanied by the fee as prescribed in § 103.7(b)(1) of this chapter. Each PORTPASS applicant 14 years of age or older must complete the application and pay the application fee. Applicants under the age of 14 will be required to complete the application, but will not be required to pay the application fee. The district director having jurisdiction over the POE where the applicant requests access may, in his or her discretion, waive the application fee.

(iv) Each vehicle registered by a PORTPASS participant must be inspected and approved by the Service prior to use in the PORTPASS system.

(v) An application may be denied in the discretion of the district director having jurisdiction over the POE where the applicant requests access. Notice of such denial shall be given to the applicant. There is no appeal from the denial, but denial is without prejudice to reapplying for this or any other Service benefit.

(vi) Applications approved by the Service will entitle the applicant to seek entry via a designated PORTPASS Program POE for a period of 1 year from the date of approval of the application unless approval is otherwise withdrawn.

(5) In addition to the conditions set forth in § 235.13(b), participants must agree to the following:

(i) The installation and/or use of any and all decals, devices, technology or other methodology deemed necessary by the Service to ensure inspection of the person(s) seeking entry through a DCL, in addition to any monetary deposit assessed by the Service pending return of any and all such decals, devices, technology, and other methodology in undamaged condition;

(ii) The payment of a system costs fee as determined by the Service as necessary to cover the costs of any and all decals, devices, technology, or other methodology used to identify and inspect persons seeking access through the DCL.

(6) The district director having jurisdiction over the POE where the participant has access may, in his or her discretion, waive the deposit and "system costs fee."

(b) *Conditions for participation in the PORTPASS Program.* Upon being inspected and positively identified by an immigration officer and found admissible and eligible for participation in the PORTPASS program, a participant in the PORTPASS program must agree to abide by the following conditions:

(1) APP-approved participants who wish to enter the United States through a POE other than one designated as an APP through which they may pass must present themselves for inspection or examination by an immigration officer during normal business hours. Entry to the United States during hours when an APP port is not staffed may be made only through a POE designated as an APP.

(2) Each occupant of a vehicle entering through a POE providing PORTPASS access must have applied for participation in the PORTPASS Program and must have been approved for that purpose.

(3) Participants must be in possession of any authorization documents issued for PORTPASS access and any other entry documents as required by the Act or by regulation at time of each entry to the United States.

(4) Participants must positively identify themselves in the manner prescribed by the Service at the time of each application for entry via the PORTPASS system. Each use of the PORTPASS system constitutes a separate application for entry to the United States.

(5) Participants must agree to an initial inspection of any vehicle prior to use of the PORTPASS access lane.

(6) Participants may not import merchandise or transport controlled or restricted items while entering the United States under the PORTPASS Program. The entry of any merchandise or goods must be in accordance with the laws and regulations of all other federal inspection agencies.

(7) Participants must agree to random checks or inspections that may be conducted by the Service at any time and at any location, to ensure compliance.

(8) Participants agree to abide by all federal, state and local laws regarding the importation of alcohol or agricultural products or the importation or possession of controlled substances as defined in section 101 of the Controlled Substance Act (21 U.S.C. 802).

(9) Participant acknowledges that all devices, decals, or other equipment, method, or technology used to identify or inspect persons or vehicles seeking entry via any PORTPASS program remains the property of the United States Government at all times, and must be surrendered upon request by the Service. Participant agrees to abide by the terms set forth by the Service for use of any device, decal, or other equipment, method or technology, including but not limited to the payment of any deposit for use of same.

(10) Participant agrees to abide by all conditions required for use of the special access lane.

(11) Participant agrees to notify the Service if a vehicle approved for use in a PORTPASS program is sold, stolen, damaged, or disposed of otherwise. If a vehicle is sold, it is the responsibility of the participant to remove or obliterate any identifying device or other authorization for participation in the program before or at the time of sale unless otherwise notified by the Service. If any license plates are replaced on an enrolled vehicle, the participant must submit a properly executed Form I–823, Application—Inspections Facilitation Program, without fee, prior to use of the vehicle in the PORTPASS program.

(c) *Violation of condition of the PORTPASS Program.* A PORTPASS Program participant who violates any condition of the PORTPASS Program, or who has violated any immigration law or regulation, or a law or regulation of the United States Customs Service or other Federal Inspection Service, or who is otherwise determined by an immigration officer to be inadmissible to the United States, may have the PORTPASS access revoked at the discretion of the district director or the chief patrol agent and may be subject to other applicable sanctions, such as criminal and/or administrative prosecution or deportation, as well as possible seizure of goods and/or vehicles.

PART 286—IMMIGRATION USER FEE

5. The authority citation for part 286 continues to read as follows:

Authority: 8 U.S.C. 1103, 1356; 8 CFR part 2.

6. Section 286.8 is revised to read as follows:

§ 286.8 Establishment of pilot programs for the charging of a land border fee for inspection services.

Under the provisions of section 286(q) of the Act, the Service may establish pilot programs at one or more land border ports-of-entry to charge fees for immigration inspection services to be collected by the Commissioner. Individual ports-of-entry selected by the Commissioner to participate in such pilot programs may charge a fee to enhance inspection services and to recover the cost of:

(a) Hiring additional immigration inspectors, including all associated personnel costs such as salary, benefits, and overtime;

(b) Expansion, operation, and maintenance of information systems for nonimmigrant control;

(c) Construction costs, including those associated with adding new primary traffic lanes (with the concurrence of the General Services Administration);

(d) Procuring detection devices and conducting training to identify fraudulent documents used by applicants for entry to the United States; and

(e) Other administrative costs associated with the PORTPASS Program.

PART 299—IMMIGRATION FORMS

7. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

8. Section 299.1 is amended by revising the entry for the "Form I–823" to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
* * *	* *	* * *
I–823	08–24–95	Application—Inspections Facilitation Program.

* * * * *

9. Section 299.5 is amended by revising the entry for the "Form I–823" to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
I–823	Application—Inspections Facilitation Program	1115–0174

* * * * * *

Dated: September 26, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

Note: This appendix will not appear in the Code of Federal Regulations.

Appendix to the preamble—Form I–823, Application—Inspections Facilitation Program.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

OMB NO. 1115-0174
Application - Inspections Facilitation Program

INSTRUCTIONS

Read carefully -- fee will not be refunded. Failure to follow instructions may require return of your application and delay final action.

1. **Preparation of Application.** Fill in application in single copy only, by typewriter, or print in block letters using only dark ink. Do not use pencil or red ink. Do not leave any question unanswered. Mark any question which does not apply to you "N/A"

2. **Who Can Apply:**

Citizens and Lawful Permanent Residents of the United States, citizens of Canada and Landed Canadian Immigrants who are citizens of British Commonwealth countries are eligible to apply for all programs. Additional eligibility criteria for each program are indicated below:

A. *Dedicated Commuter Lane Program* - Certain citizens of Mexico and certain non-immigrants.

B. *Automated Permit Port Program* - Certain non-immigrants.

C. *INSPASS Land Border* - Holders of Mexican Border Crossing Cards and citizens of Visa Waiver Program countries.

D. *INSPASS Airport* - Citizens of Visa Waiver Program countries or any other country approved for participation by the Commissioner, INS.

Each participant in each program must submit a separate application. Persons under 14 years of age may not enroll in either INSPASS Program.

3. **Where to Submit This Application.** Applications may be submitted in person or by mail to the U.S. Port-of-Entry sponsoring the Dedicated Commuter Lane for which you are applying, or at the Port-of-Entry having jurisdiction over the Automated Permit Port for which you request access. INSPASS applicants may apply at any INSPASS Port-of-Entry in person or by mail.

4. **Submission of Application.** Each application must be supported by evidence of citizenship, and in the case of lawful permanent residents of the United States or Canada, evidence of legal resident status and other documentary requirements as specified in the Immigration and Nationality Act (Act). Photocopies of passports, naturalization certificates, or other evidence of eligibility may be submitted (do not send originals in mail).

5. **Final Approval.** Your application will be reviewed and an interview may be scheduled prior to acceptance. You will be required to produce your original evidence of eligibility at that time. Approval for participation is valid for one year unless otherwise revoked.

6. **Denial.** An application for participation in a program may be denied at the discretion of the District Director without appeal. All applicants denied shall be so notified. Applications submitted without the required documentation or which are incomplete will be returned without action.

7. **Application Fee.**

A. The fee for the Dedicated Commuter Lane Program is $25.00 (U.S.) with a maximum amount payable by a family (husband, wife, and any minor children) of $50.00 (U.S.). If fingerprints are required, there will be an additional fee.

B. Presently, there is no fee for the Automated Permit Port Program or for either INSPASS Program.

Payment may be made by check or money order in the exact amount. All checks and money orders must be payable in U.S. currency at a financial institution in the United States. Make check or money order payable to "Immigration and Naturalization Service." A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

8. **Privacy Act Statement.** The authority to collect this information is contained in Title 8, United States Code. Furnishing the information on this form is voluntary; however, failure to provide all of the requested information may result in the delay of a final decision or denial of your request. The information collected will be used to make a determination on your application. It may also be provided to other government agencies (Federal, state, local and/or foreign).

9. **Penalties for False Statements in Applications.** Severe penalties are provided by law for knowingly and willfully falsifying or concealing a material fact or using any false document in the submission of this application. Also, a false representation may result in the denial of this application and any other application you may make for any benefit under the immigration laws of the United States.

10. **Random compliance checks.** Periodic random checks will be conducted to ensure compliance with the conditions of each program. Any person violating the conditions and terms of the program may be subject to severe penalties, ificluding revocation of the permit; seizure of the vehicle and/or goods as applicable; as well as possible fines and/or criminal prosecution and deportation.

11. **Reporting Burden.** We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1) learning about the form, and reading and understanding U.S. Customs Publications 28 minutes; 2) completing the form, 8 minutes; 3) fingerprinting 30 minutes; and 4) assembling and mailing the application, 4 minutes, for an estimated average of 70 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, 425 I Street, N.W.; Room 5307, Washington, D.C. 20536. **Do not mail your completed application to this address.**

U. S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0174
Application - Inspections Facilitation Program

START HERE - PLEASE TYPE OR PRINT

Application Type: *(Check one)* [ ] Dedicated Commuter Lane Program [ ] Automated Permit Port Program [ ] INSPASS Airport [ ] INSPASS Land

1. Name: *(Last)* *(First)* *(Middle Name)*	2. Date of Birth: *(MM/DD/YY)*

3. U.S. Social Security Number *(If applicable)*	4. U.S. Alien Registration No. *(If applicable)*	5. Gender: ( ) Male ( ) Female

6. Place of Birth: *(City)* *(State)* *(Country)*

7. Permanent Address *(Street Number and Name)*:

City:	State/Province/Country:	Zip/Postal Code:	8. Country of Citizenship:

9. Driver's License No. *(If applicable)*:	State/Province/Country of Issuance:	10. Frequency of cross/border travel *(Per year)*:
		☐ 0-5 ☐ 11-100 ☐ 6-10 ☐ More than 100

11. Usual purpose of Entry:

12. Port-of-Entry where you intend to enter the United States:

13. Have you ever been:

a. Arrested or convicted of a criminal offense, anywhere? Yes__ No__
b. Granted a conditional discharge or pardon? Yes__ No__
c. Found to be in violation of any immigration law? Yes__ No__
d. Found to be in violation of any customs law? Yes__ No__
e. Refused admission to the United States? Yes__ No__
f. Denied any other immigration benefit, whether you applied for the benefit directly, or the benefit was sought on your behalf? Yes__ No__

If yes, please explain: _____

For Government Use Only

Identification Document(s) Presented _____ Expiration Date: _____

Type of Application: ☐ Initial ☐ Renewal ☐ Replacement Card

Remarks: _____

Form I-823 (Rev. 08-24-95) *No prior version may be used.*

APPENDIX

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0174
Application - Inspections Facilitation Program

AUTOMATED PERMIT PORT PARTICIPANTS

1. Participant acknowledges that he/she is a citizen or permanent resident of the United States, or a citizen of the country contiguous to the Port-of-Entry sponsoring the permit port program in which the applicant seeks to participate, or a Landed Canadian Immigrant who is a citizen of the Commonwealth countries, or is a citizen of a country designated by the Commissioner of the Immigration and Naturalization Service as eligible to participate in the PORTPASS Program.

2. Participant agrees to a full inspection of the registered vehicle(s) listed on the application prior to initial use of the Automated Permit Port, if requested by any government agency.

3. Participant agrees to submit to a full and complete vehicular and passenger inspection, for compliance purposes, at any time or location while using the Automated Permit Port.

4. Participant agrees to pay an annual fee for the use of the Automated Permit Port, if required.

5. Participant agrees to abide by all conditions imposed. These conditions include, but are not limited to, the following:

   a. Transportation of only enrolled PORTPASS participants when entering a location designated as an Automated Permit Port during a time that location is normally closed to non-PORTPASS participants;
   b. State and Federal laws regarding the importation of alcohol or agricultural products;
   c. All Federal, state and local laws pursuant to Sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Immigration and Nationality Act regarding possession and importation of controlled substances; and,
   d. All other pertinent regulations under the jurisdiction of any other Federal inspection agency.

6. Participant agrees that he/she will not be exempt from the normal examination process when entering at an open, designated Port-of-Entry or while transporting persons who are not enrolled in the PORTPASS Program.

7. Participant agrees to retain the Automated Permit Port authorization document when crossing the border and to produce such document and personal identification, including any required passport, visa, or Border Crossing Card, upon request.

8. Participant acknowledges that the Automated Permit Port may not be used when importing merchandise or transporting controlled or restricted items.

9. Participant acknowledges that a violation of the conditions listed above for use of the Automated Permit Port may result in removal from the program and may result in the imposition of any other applicable fines, penalties, or sanctions as provided by law.

10. Participant acknowledges that he/she has read and understood U.S. Customs publication 512, "Know Before You Go", for U.S. resident applicants, or U.S. Customs publication 511-A, "Customs Hints", for non-resident applicants. If there is anything to be declared in the vehicle by anyone, beyond entitled exemptions, the vehicle cannot use the Automated Permit Port.

11. Vehicle Information *(List several if applicable)*:

Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____
Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____
Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____

CERTIFICATION:

I certify that I have read, understood, and agree to abide by all conditions listed above for use of the Automated Permit Port. I also certify that the information given is true and complete. I understand that all information may be shared with other government agencies.

_____ _____

(Signature of Applicant) *(Date)*

Form I-823A (Rev. 08-24-95) *No prior version may be used.*

APPENDIX

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0174
Application - Inspections Facilitation Program

DEDICATED COMMUTER LANE PARTICIPANTS

1. Participant acknowledges that he/she is a citizen or permanent resident of the United States, or a citizen of the country contiguous to the Port-of-Entry sponsoring the commuter lane program in which the applicant seeks to participate, or a Landed Canadian Immigrant who is a citizen of the Commonwealth countries, or is a citizen of a country designated by the Commissioner of the Immigration and Naturalization Service as eligible to participate in the PORTPASS Program.

2. Participant agrees to a full inspection of the registered vehicle(s) listed on the application prior to initial use of the Dedicated Commuter Lane, if requested by any government agency.

3. Participant further agrees to submit to a full and complete vehicular and passenger inspection, for compliance purposes, at any time or location while using the Dedicated Commuter Lane.

4. Participant agrees to pay a system costs fee and/or deposit, as determined necessary by the Service pursuant to regulations, for the use of the Dedicated Commuter Lane. All devices, decals, or other equipment, method or technology used to identify persons or vehicles in the DCL program remains the property of the U.S. Government and must be surrendered upon request to the Service.

5. Participant agrees to abide by all conditions imposed. These conditions include, but are not limited to, the following:

   a. The transportation of only enrolled PORTPASS participants while using the Dedicated Commuter Lane;
   b. State and Federal laws regarding the importation of alcohol or agricultural products;
   c. All Federal, state and local laws pursuant to Sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Immigration and Nationality Act regarding possession and importation of controlled substances; and,
   d. All other pertinent regulations under the jurisdiction of any other Federal inspection agency.

6. Participant agrees to retain the Dedicated Commuter Lane authorization document when crossing the border and to produce such document and personal identification, including any required passport, visa, or Border Crossing Card, upon request.

7. Participant acknowledges that the Dedicated Commuter Lane may not be used when importing merchandise or transporting controlled or restricted items.

8. Participant acknowledges that a violation of the conditions listed above for use of the Dedicated Commuter Lane may result in removal from the program and, in addition, may result in the imposition of any other applicable fines, penalties, or sanctions as provided by law.

9. Participant acknowledges that he/she has read and understood U.S. Customs publication 512, "Know Before You Go", for U.S. resident applicants, or U.S. Customs publication 511-A, "Customs Hints", for nonresident applicants. If there is anything to be declared in the vehicle by anyone, beyond entitled exemptions, the vehicle cannot use the Dedicated Commuter Lane.

10. Vehicle Information *(List several if applicable)*:

Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____
Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____
Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____

CERTIFICATION:

I certify that I have read, understood, and agree to abide by all conditions listed above for use of the Dedicated Commuter Lane. I also certify that the information given is true and complete. I understand that all information may be shared with other government agencies.

_____ _____

(Signature of Applicant) *(Date)*

Form I-823B (Rev. 08-24-95) *No prior version may be used.*

APPENDIX

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0174
Application - Inspections Facilitation Programs

INSPASS AIRPORT PARTICIPANTS

1. Participant acknowledges he/she is a citizen or permanent resident of the United States, a citizen of Canada, a Landed Canadian Immigrant who is a citizen of a British Commonwealth country, a citizen of a Visa Waiver Program country, or any other country approved for participation by the Commissioner, Immigration and Naturalization Service.

2. Participant may not use the INSPASS card when entering the United States for a purpose other than that stated in this application.

3. Participant will not be exempt from the normal examination process when entering for any other purpose.

4. Participant agrees to abide by all conditions imposed. These conditions include, but are not limited to, the following:

   a. State and federal laws regarding the importation of alcohol or agricultural products;
   b. All federal, state, and local laws relating to Section 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Immigration and Nationality Act regarding possession and importation of controlled substances; and,
   c. All other pertinent regulations under the jurisdiction of any other federal inspection agency.

5. Participant agrees to produce any required passport, and visa, If required, or Border Crossing Identification Card, or Alien Registration Card, upon request during periodic random checks or inspections for compliance purposes.

6. INSPASS does not relieve the holder of compliance with documentary requirements. The traveler must be in possession of a valid passport, visa, Border Crossing Card, or Alien Registration Card, if required. The INSPASS Card remains the property of the United States and may be revoked or cancelled at anytime without notice.

7. Participant acknowledges that a violation of the conditions listed above may result in removal from the program and may result in the imposition of any other applicable fines, penalties, or sanctions as provided by law.

INSPASS SUPPLEMENTAL QUESTIONS:

Passport Number: _____ Expiration Date: _____

Country Issuing Passport: _____

Employer's Name: _____

Occupation: _____

Admission Classification: _____

Language Preference: _____

NON UNITED STATES CITIZENS *(If you are a United States Citizen do not complete this section)*			
Visa Class *(If Applicable)*	Visa Number	Place of Visa Issuance (City or Country)	Date of Visa Issuance
Date of Visa Expiration		Country of Residence	
Contact Address in the United States *(Street number and name, City, State and Zip Code)*			

Form I-823C (Rev. 08-24-95) *No prior version may be used.*

APPENDIX

CERTIFICATION: *(All applicants must sign)*

I certify that I have read, understood, agree to abide by all conditions listed above for use of the INSPASS. I also certify that the infomation is true and complete. I understand that all information may be shared with other government agencies.

_____ _____

(Signature of Applicant) *(Date)*

VISA WAIVER PARTICIPANTS *(To be completed by Visa Waiver Program Applicants Only)*

	YES	NO
A. Do you have a communicable disease; physical or mental disorder; or are you a drug abuser or addict?	☐	☐
B. Have you ever been arrested or convicted for an offense or crime involving moral turpitude or a violation related to a controlled substance; or been arrested or convicted for two or more offenses for which the aggregate sentence to confinement was five years or more; or been a controlled substance trafficker; or are you seeking entry to engage in criminal or immoral activities?	☐	☐
C. Have you ever been or are you now involved in espionage or sabotage; or in terrorist activities; or genocide; or were you involved, in any way, between 1933 and 1945 in persecutions associated with Nazi Germany or its allies?	☐	☐
D. Are you seeking to work in the United States; or have you ever been excluded and deported or previously removed from the United States; or have you ever procured or attempted to procure a visa or entry into the United States by fraud or misrepresentation?	☐	☐
E. Have you ever detained, retained, or withheld custody of a child from a United States Citizen granted custody of the child?	☐	☐
F. Have you ever been denied a United States visa or entry into the United States or had a United States visa cancelled? If yes, when? _____ Where? _____	☐	☐
G. Have you ever asserted immunity from prosecution?	☐	☐

I understand that I am not entitled to any review or appeal of an immigration officer's determination as to my admissibility, nor am I entitled to contest any determination of deportability other than on the basis of an application for asylum.

_____ _____

(Signature of Applicant) *(Date)*

WARNING: You may not accept unauthorized employment; or attend school; or represent the foreign information media during your visit under this program. You are authorized to stay in the United States for 90 days or less. You may not apply for: 1) a change of nonimmigrant status; 2) adjustment of status to temporary or permanent resident, unless eligible under section 201(b) of the Immigration and Nationality Act (INA); or 3) an extension of stay. Violation of these terms will subject you to deportation.

APPENDIX

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0174
Application - Inspections Facilitation Programs

INSPASS LAND BORDER PARTICIPANTS

1. Participant acknowledges that he/she is a citizen, or Lawful Permanent Resident of the United States, a citizen of Canada, a Landed Canadian Immigrant who is a citizen of a British Commonwealth country, is the holder of an unexpired Border Crossing Card, or is a national of a Visa Waiver Program country. Border Crossing Card holders are restricted to an entry not to exceed 72 hours in duration and travel of less than 25 miles from the Port-of-Entry to the United States.

2. Participant may not use the INSPASS card when entering the United States for a purpose other than that stated in this application.

3. Participant will not be exempt from the normal examination process when entering for any other purpose.

4. Participant agrees to abide by all conditions imposed. These conditions include, but are not limited to, the following:

   a. State and federal laws regarding the importation of alcohol or agricultural products;
   b. All federal, state, and local laws relating to Section 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Immigration and Nationality Act regarding possession and importation of controlled substances; and,
   c. All other pertinent regulations under the jurisdiction of any other federal inspection agency.
   d. Participant cannot bring in any agricultural products of any kind irregardless of it being processed, treated, frozen, or fresh including products normally permissible by U.S. Department of Agriculture Animal and Plant Health Inspection Service.

5. Participant agrees to produce personal identification, including any required passport, visa, Alien Registration Card, or Border Crossing Identification Card, upon request during periodic random checks or inspections for compliance purposes.

6. Participant acknowledges that the INSPASS Card authorizes entry only for the card holder, not goods, and may not be used when importing merchandise or transporting controlled or restricted items. Children may not accompany the card holder through the INSPASS inspection lane.

7. INSPASS does not relieve the holder of compliance with documentary requirements. The traveler must still be in possession of a valid passport, visa, Border Crossing Card, or Alien Registration Card, if required. The INSPASS Card remains the property of the United States and may be revoked or cancelled at anytime without notice.

8. Participant acknowledges that a violation of the conditions listed above may result in removal from the program and may result in the imposition of any other applicable fines, penalties, or sanctions as provided by law.

INSPASS SUPPLEMENTAL QUESTIONS:

Passport Number: _____ Expiration Date: _____

Country Issuing Passport: _____

Employer's Name : _____

Occupation: _____

Admission Classification: _____

Language Preference: _____

Form I-823D (Rev. 08-24-95) *No prior version may be used.*

APPENDIX

CERTIFICATION: *(All applicants must sign)*

I certify that I have read, understood, agree to abide by all conditions listed above for use of the INSPASS. I also certify that the infomation is true and complete. I understand that all information may be shared with other government agencies.

_____ _____

(Signature of Applicant) *(Date)*

VISA WAIVER PARTICIPANTS *(To be completed by Visa Waiver Program Applicants Only)*

	YES	NO
A. Do you have a communicable disease; physical or mental disorder; or are you a drug abuser or addict?	☐	☐
B. Have you ever been arrested or convicted for an offense or crime involving moral turpitude or a violation related to a controlled substance; or been arrested or convicted for two or more offenses for which the aggregate sentence to confinement was five years or more; or been a controlled substance trafficker; or are you seeking entry to engage in criminal or immoral activities?	☐	☐
C. Have you ever been or are you now involved in espionage or sabotage; or in terrorist activities; or genocide; or were you involved, in any way, between 1933 and 1945 in persecutions associated with Nazi Germany or its allies?	☐	☐
D. Are you seeking to work in the United States; or have you ever been excluded and deported or previously removed from the United States; or have you ever procured or attempted to procure a visa or entry into the United States by fraud or misrepresentation?	☐	☐
E. Have you ever detained, retained, or withheld custody of a child from a United States Citizen granted custody of the child?	☐	☐
F. Have you ever been denied a United States visa or entry into the United States or had a United States visa cancelled? If yes, when? _____ Where? _____	☐	☐
G. Have you ever asserted immunity from prosecution?	☐	☐

I understand that I am not entitled to any review or appeal of an immigration officer's determination as to my admissibility, nor am I entitled to contest any determination of deportability other than on the basis of an application for asylum.

_____ _____

(Signature of Applicant) *(Date)*

WARNING: You may not accept unauthorized employment; or attend school; or represent the foreign information media during your visit under this program. You are authorized to stay in the United States for 90 days or less. You may not apply for: 1) a change of nonimmigrant status; 2) adjustment of status to temporary or permanent resident, unless eligible under section 201(b) of the Immigration and Nationality Act (INA); or 3) an extension of stay. Violation of these terms will subject you to deportation.

APPENDIX

[FR Doc. 95–24350 Filed 9–28–95; 8:45 am]
BILLING CODE 4410–10–C

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–0858]

Truth in Lending; Mortgage Disclosures; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Technical Correction to final regulation.

SUMMARY: This document contains a correction to the final rule (Docket No. R–0858) which was published Friday, March 24, 1995 (60 FR 15463). The amendments to Regulation Z concerned new disclosure requirements on reverse mortgage transactions (as well as on certain home loans bearing rates or fees above a certain percentage or amount).

EFFECTIVE DATE: September 25, 1995.

FOR FURTHER INFORMATION CONTACT: Sheilah Goodman or Kurt Schumacher, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for the hearing impaired *only*, Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

Background

The regulation that is the subject of this correction is Regulation Z (12 CFR part 226), which implements the Truth in Lending Act (15 U.S.C. 1601–1666j). The act (TILA) requires creditors to disclose credit terms for consumer transactions. The Home Ownership and Equity Protection Act of 1994 (HOEPA), contained in the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, 108 Stat. 2160) amended the TILA. Section 154 of the HOEPA added a new section 138 to the TILA dealing with disclosures required for reverse mortgage transactions. The final rule implementing these provisions in Regulation Z was published on March 24, 1995 (60 FR 15463).

Need for Correction

As published, the final rule implementing new TILA section 138 contains an error in the unit period used in the first example of the total annual loan cost rate computation in appendix K to part 226, which also results in an erroneous total annual loan cost rate being shown for that example. The error resulted from the use of a monthly unit period in the transaction, whereas, under the definition of a unit period for single-advance single-payment transactions (paragraph (b)(4)(ii) of appendix K), the proper unit period is 1 year. This error has been corrected. For consistency and ease of understanding, the Baln figure has also been revised to reflect the use of an annual unit period.

Correction of Publication

Accordingly, the publication on March 24, 1995, of the final regulation (Docket No. R–0858), which was the subject of FR Doc. 95–7231, is corrected as follows:

Appendix K to Part 226—[Corrected]

On page 15475, in the example in paragraph (c)(1) of appendix K to Part 226, the formula (which follows the phrase "Assumed annual dwelling appreciation rate: 4%") is corrected to read as follows:

* * * * *

(c) * * *

(1) * * *

P_{10} = Min (103,385.84, 137,662.72)

$$30{,}000(1+i)^{10-0}+\sum_{j=0}^{9}(1+i)^{10-j}=103{,}385.84$$

i = .1317069438

Total annual loan cost rate

(100(.1317069438 × 1)) = 13.17%

(2) * * *

Board of Governors of the Federal Reserve System, September 25, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–24240 Filed 9–28–95; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AB85

Assessments

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending its regulation on assessments in several ways.

First, the FDIC is delaying the regular payment date for tl e first quarterly assessment payment that insured institutions must make for the first semiannual period of each year (first payment). The first payment has been due on December 30 of the prior year. The FDIC is changing the regular payment date to the January 2 (or the first business day thereafter). But at the same time, the FDIC is giving insured institutions the option of making the first payment on December 30 (or the prior business day). The FDIC's purpose in making this pair of changes is to relieve certain institutions of the regulatory burden of having to make an extra assessment payment in 1995, while at the same time affording flexibility to other institutions to make such a payment if they should so desire.

Second, the FDIC is giving insured institutions the option of paying double the amount of any quarterly payment, when the payment is made on a payment date (regular or alternate, as the case may be) that comes before the start of the quarter to which the payment pertains—i.e., on the March, June, September, and December payment dates. The FDIC is adopting this change in response to a suggestion made by a commenter. The FDIC believes the change will promote greater flexibility in the assessment procedures.

Third, the FDIC is replacing the interest rate to be applied to underpayments and overpayments of assessments with a new, more sensitive rate derived from the 3-month Treasury bill discount rate. Rates set under the prior standard have rapidly become obsolete in volatile interest-rate markets; the new standard is more sensitive to current market conditions.

Finally, the FDIC is shortening the timetable for announcing a change in the assessment rate from 45 days to 15 days prior to the invoice date. This change enables the FDIC to use the most up-to-date information available for computing assessments, thereby benefiting both the FDIC and the depository institutions.

EFFECTIVE DATE: This rule is effective September 29, 1995, except the amendments to § 327.7 are effective October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Allan Long, Assistant Director, Treasury Branch, Division of Finance (703) 516–5559; Claude A. Rollin, Senior Counsel,

Legal Division (202) 898–3985; or Jules Bernard, Counsel, Legal Division, (202) 898–3731; Federal Deposit Insurance Corporation, Washington, D. C. 20429.

SUPPLEMENTARY INFORMATION:

A. Background

1. The payment schedule

On December 20, 1994, the FDIC adopted a new quarterly-collection procedure for collecting deposit insurance assessments. See 59 FR 67153 (December 29, 1994). The quarterly-collection procedure became effective April 1, 1995: it applies to the second semiannual assessment period of 1995 (beginning July 1, 1995) and thereafter.

The quarterly-collection procedure calls for the FDIC to collect assessment payments four times a year, by means of FDIC-originated direct debits through the Automated Clearing House network. Prior to the final rule adopted here, each payment to be made for a calendar quarter was due just prior to the start of that quarter.[1] The payment for the first calendar quarter of a year (first payment)—the initial payment for the first semiannual period of the year—was due on the prior December 30. The other regular payment dates followed suit. The second-quarter payment was due on March 30. The payment for the third quarter—the initial payment for the second semiannual period of the year—was due on June 30. And the payment for the fourth quarter was due on September 30. (In every case, if the scheduled payment date fell on a holiday or a weekend, the payment was to be made by the previous business day.)

The FDIC published the quarterly-collection procedure as a proposed rule before adopting it. See 59 FR 29965 (June 10, 1994). The FDIC received 51 comment letters on the proposal.

Two commenters pointed out that the quarterly-collection procedure would produce the so-called "5 in 95" anomaly. That is, institutions would pay their full semiannual assessment for the first semiannual period in 1995 in January, in accordance with the assessment regulations then in effect. Institutions would also pay both quarterly payments for the second semiannual period in 1995 (one at the end of June; the other at the end of September). Then institutions would make one more payment in 1995: the first payment for 1996. In effect, in 1995 they would pay assessments for 5 quarters.

The two commenters asked the FDIC to move the payment date for the first payment for 1996 from December 30, 1995, to January, 1996. In response, the FDIC looked into the issue further.

The FDIC concluded, as a result of its inquiry, that the "5 in 95" anomaly would have an adverse effect on relatively few institutions. The FDIC therefore decided to retain the December payment date. The FDIC recognized that the December 1995 payment date could present a one-time problem for some institutions. But the FDIC concluded that this situation was simply a by-product of the shift from a semiannual to a quarterly collection procedure, and would not involve an "extra" assessment payment. The FDIC further observed that this timing issue would adversely affect only institutions that use cash-basis accounting. Finally, the FDIC pointed out that the commenters' recommended solution—moving the December payment date to January—would not cure the problem if adopted only for a single year: the problem would recur in 1996. Curing the problem would require a permanent change in the December payment date. When the FDIC adopted the regulation in final form, the FDIC retained the December 30 payment date. See 59 FR 67153, 67157 (December 29, 1994).

Shortly after adopting the quarterly-collection procedure, however, the FDIC began to receive information suggesting that more institutions would be adversely affected by the December payment date than was initially thought. Moreover, the Independent Bankers Association of America (IBAA) issued a letter to the FDIC requesting the FDIC to reconsider the issue in light of the December payment date's effect on cash-basis institutions. The FDIC's Board of Directors viewed the IBAA's request as a "petition for the amendment of a regulation" within the meaning of the FDIC's policy statement "Development and Review of FDIC Rules and Regulations," 2 FED. DEPOSIT INS. CORP. LAWS, REGULATIONS, RELATED ACTS 5057 (1984). The FDIC therefore proposed the rule that is here adopted in final form. 60 FR 40776 (August 10, 1995).

The final rule moves the regular payment date for the first payment from December 30 of the prior year (or the preceding business day) to January 2 (or the next business day) of the current year. The final rule does not change the other regular payment dates.

2. Doubled Payments

Prior to the final rule adopted here, the FDIC's regulations did not provide a standard method for institutions to pay amounts other than the regular quarterly payments.

The final rule gives each institution the option of paying double the amount of a quarterly payment, if the payment is made on a payment date (regular or alternate, as the case may be) that comes prior to the start of the calendar quarter for which it is due. The final rule specifies the methodology for making doubled payments.

3. Interest on Underpaid and Overpaid Assessments

The FDIC pays interest on amounts that insured institutions overpay on their assessments, and charges interest on amounts by which insured institutions underpay their assessments. The interest rate has been the same in either case: namely, the United States Treasury Department's current value of funds rate which is issued under the Treasury Fiscal Requirements Manual (TFRM rate) and published in the **Federal Register**. See 12 CFR 327.7(b).[2]

The TFRM rate is based on aged data, however, and quickly becomes obsolete in volatile interest-rate markets. For example, the rate set for January through June, 1995, was based on the average rate data from October, 1993, through September, 1994. The practical consequence is that the TFRM rate for the January-to-June period in 1995 was 3% per annum, when the actual market rate at that time was over 5% per annum.

The FDIC is replacing the TFRM rate with a rate keyed to the 3-month Treasury bill discount rate. The new rate takes effect on January 1, 1996.

4. The Assessment-Schedule Notice

Under the FDIC's regulations, the semiannual assessment rate schedule is announced in advance, along with the amount and basis for any adjustment to the rate schedule. Prior to the final rule adopted here, the announcement was to be made 45 days prior to the invoice date—that is, the date on which the FDIC issues assessment invoice notices to institutions—for the first quarter of the semiannual period to which the adjusted assessment schedule applies. 12 CFR 327.9(b)(3)(ii).

The final rule reduces the advance-notice period to 15 days.

[1] Thirty days before each regular payment date, the FDIC provides to each institution an invoice showing the amount that the institution must pay. The FDIC prepares the invoice from data that the institution has reported in its report of condition for the previous quarter. See 12 CFR 327.3(c) & (d).

[2] The Treasury Fiscal Requirements Manual is now called the Treasury Financial Manual.

B. The Final Rule

1. Payment Dates for First Payments

a. The Regular Payment Date

The final rule delays the first payment's regular payment date from December 30 of the prior year to January 2 of the current year (or, if January 2 is a holiday or weekend, the first business day thereafter). Every institution will ordinarily make its first payment on that date. In this regard, the final rule adopts the rule as proposed.

The final rule is designed to protect cash-basis institutions against the adverse consequences of having to make an extra assessment payment during 1995. The remedy is necessarily a continuing one. Accordingly, the FDIC has changed the payment date permanently.

The FDIC believes that the delay in the payment date confers a financial benefit to institutions, because they may earn additional interest on the funds they retain for the additional time. The FDIC does not consider that it is appropriate to give a benefit of this kind to some institutions but not others, however. Accordingly, the FDIC is changing the payment date for all institutions, not just for cash-basis institutions.

The FDIC further believes that most institutions have already prepared to comply with the direct-debit procedures, and will suffer no procedural disadvantage from the delayed payment date. The FDIC will therefore follow the same procedures as before in collecting the first payment.

b. The Alternate Payment Date

The FDIC recognizes, however, that some institutions may prefer the existing payment schedule, notwithstanding the fact that they will be making five payments during 1995. The final rule accommodates these institutions. The final rule provides that an institution may elect to pay its first payment for any year on an alternate payment date during the prior December. The final rule adopts the rule as proposed in this regard.

The alternate payment date is December 30 of the prior year (or, if December 30 is a holiday or a weekend, the preceding business day). The FDIC will collect payments made on that date by electronically debiting institutions' accounts, just as the FDIC collects other quarterly assessment payments.

In order to elect the December date, an institution must file a certification to that effect by the preceding November 1. The election is effective with respect to the first payment for the upcoming year, and remains in effect until terminated.

The institution must complete a pre-printed form supplied by the FDIC to make the certification. The form will be available from the FDIC's Division of Finance. The institution's chief financial officer, or an officer designated by the institution's board of directors, must sign the form. An electing institution must certify that it will pay its first assessment on the alternate payment date.

An institution may terminate its election of the December date in the same way as it makes the election: By certifying that it is terminating the election for an upcoming year. As in the case of the original election, the institution must use a pre-printed form supplied by the FDIC to make the certification, and must file the form by November 1 of the prior year. The institution will then revert to the regular payment schedule for the upcoming year and for all future years.

An institution that terminates an election may make a new election at any time.

The rule as proposed called for institutions to follow these procedures. The final rule adopts the rule as proposed in this regard.

The FDIC will not pay interest on payments made prior to the regular payment date. If an institution elects the alternate payment date, or otherwise pays an assessment before the regular payment date for that payment, the FDIC will not pay interest on the amount that is ordinarily to be paid on the regular payment date.

Of course, it is possible for an institution that makes its payment on the alternate payment date to pay an excess amount. The FDIC will pay interest on the excess amount, but not on the amount due for the quarterly payment. Furthermore, the FDIC will only pay such interest to the same extent as if the institution had made the excess payment on the regular payment date: That is, interest will not begin to run until the day after the regular payment date. Conversely, if an institution elects the alternate payment date, and underpays the amount due, the FDIC will only charge interest on the amount of the underpayment beginning on the day after the regular payment date.

The proposed rule said that the FDIC would charge and pay interest in the manner described here. The final rule adopts the proposed rule in the regard.

The FDIC believes that it is appropriate to allow the alternate payment option for two reasons. The FDIC recognizes that institutions that keep their books on an accrual basis are not materially harmed by having to pay five quarters' worth of assessments in 1995. (By the same token, these institutions are not materially harmed by delaying the payment date from December to January.) Some of these institutions may prefer to pay some or all of their first semiannual assessments on the alternate payment date for their own business reasons. The FDIC further recognizes that institutions may have arranged their affairs in the expectation that the first payment for 1996 will be due in 1995. The FDIC is providing the option of paying on the alternate payment date in order to enable these institutions to avoid unnecessary disruption and financial disadvantage.

2. Doubled Payments

The proposed rule said that, when an institution elects the alternate payment date for the first payment, the institution may further elect to pay either the amount of the first payment or twice that amount. The final rule retains this point.

One commenter suggested, however, that some institutions may want to make a doubled payment at the start of the second semiannual assessment period as well as at the start of the first one. The final rule accommodates this suggestion.

The final rule says that, whenever an institution makes a payment on a payment date (regular or alternate, as the case may be) that comes before the start of the quarter for which the payment is due, the institution may make a doubled payment. In other words, institutions may make doubled payments on March 30, June 30, September 30, and December 30.

The doubled-payment election would remain in effect from year to year until terminated, but only for the selected payment date. If an institution wished to make doubled payments for a second payment date, the institution would file another election with respect to the second date.

The procedure enables institutions to make doubled payments at the start of either or both semiannual periods, as they choose. The procedure further gives an institution with a fiscal year that starts at the beginning of the second or fourth calendar quarter the option of making a doubled payment prior to that calendar quarter.

The FDIC recognizes that cash-basis institutions may have fiscal years that do not coincide with the calendar year. The FDIC is adopting this option to give such institutions (and others) the flexibility to schedule their payments as they see fit for their own financial purposes.

A doubled payment represents an approximation of the amount due for two quarterly payments. The approximation is not intended to be exact. Growing institutions will ordinarily owe an additional amount on the next quarterly payment date; shrinking institutions will ordinarily receive a credit.

Doubled payments are not regarded as "overpayments." The FDIC will not pay interest on the extra amount so paid.

The final rule differs from the proposed rule in that the procedure for electing the doubled-payment option is split off from the procedure for electing the alternate payment date. But the two procedures are substantially alike.

An institution that wishes to pay a doubled amount must file a certification to that effect prior to the relevant regular payment date. For the first payment, the certification must be filed by the preceding November 1 (the same date as that for filing the certification for the alternate payment date). For the other quarterly payments, the certification must be filed by the first day of the month prior to the relevant regular payment date: i.e., February 1, May 1, August 1, and November 1, respectively. The doubled-payment election is effective with respect to the payment made on the relevant payment date and to all payment dates thereafter, until terminated.

The institution must complete a pre-printed form supplied by the FDIC to make the certification. The form will be available from the FDIC's Division of Finance. The institution's chief financial officer, or an officer designated by the institution's board of directors, must sign the form. An electing institution must certify that it will pay the doubled amount on the relevant payment date.

An institution may terminate its election of the doubled-payment option by certifying that it is terminating the election as of a particular payment date. The institution must use a pre-printed form supplied by the FDIC to make the certification, and must file the form by the prior February 1, May 1, August 1, or November 1, as appropriate. The institution will then pay the regular amount on the relevant payment date and thereafter.

An institution that terminates the doubled-payment election may make a new election at any time. The new election is subject to the same deadline.

3. Interest on Underpaid and Overpaid Assessments

The FDIC is replacing the interest rate that is applied to underpaid assessments and overpaid assessments. The previous rate was the TFRM rate (which is now 5.00% per annum), which is compounded annually. The FDIC is replacing this rate with a more market-sensitive rate: the coupon equivalent rate set on the 3-month Treasury bill at the last auction held by the U.S. Treasury Department before the start of each quarter. Interest will be compounded as of the first day of each subsequent quarter. Currently, this rate is 5.51% per annum (see below). The final rule adopts the rule as proposed in this regard.

Interest begins to run on the day after the regular payment date and continues to run through the day on which the debt is paid. 12 CFR 327.7(a)(3). The final rule changes the regular payment date for the first payment for 1996 to January 2. Accordingly, interest on any overpayments or underpayments due on that date will begin to run on January 3 (even if an institution has elected the alternate payment date).

The next payment date is March 29 (March 30 being a Saturday). The FDIC will ordinarily collect or repay the full amount of the January overpayment or underpayment (plus interest) on that date by adjusting the payment then due. Accordingly, interest on the January overpayment or underpayment will run through March 29.

The initial interest rate is the rate for the quarter for which (but not generally in which) the payment will be made. The payment date for the first quarter of 1996 is January 2, which falls within that quarter. But the payment dates for the second, third, and fourth calendar quarters are March 30, June 30, and September 30, respectively (and if the regular payment date falls on a weekend or holiday, the payment date is the preceding business day). Each of these payment dates falls in the quarter preceding the quarter for which the payment is due. Nevertheless, the initial interest rates on any underpayments or overpayments of payments due on these dates are the rates for the second, third, and fourth quarters, respectively.

The final rule differs slightly from the proposed rule in setting the interval during which the appropriate interest rate will be applied. The proposed rule reset the rate at the end of each calendar quarter, thereby introducing needless complexity, especially when the payment date came after the end of the calendar quarter. The final rule uses the quarterly-collection cycle to set the structure for resetting the rate. The FDIC is making this change in order to simplify and clarify the interest-rate procedure.

Under the final rule, the initial interest rate on an overpayment or underpayment applies to the amount in question beginning on the day after the regular payment date (but not the alternate payment date) and ending on the next regular payment date (but not the alternate payment date). The FDIC resets the rate on the day following that next regular payment date. If any portion of the overpayment or underpayment (including interest) remains outstanding at that time, the FDIC applies the new rate to the outstanding amount through the following regular payment date (or until the overpayment or underpayment is discharged, whichever comes first).

If the rate had been in effect for the third quarter in 1995, the FDIC would have computed interest on an overpayment or underpayment of an amount due for that quarter as follows:

The FDIC would have based the rate on the average rate for the 3-month Treasury bill set at the June 26, 1995, auction (settling on June 29, 1995). On a bank discount rate basis (360-day year with no compounding), the auction resulted in a 5.35% average rate. This converts to a coupon equivalent rate of 5.51% according to the United States Treasury Department.

June 30 is the payment date. On the following day (July 1) the FDIC would have begun to apply the 5.51% rate to overpayments or underpayments collected on June 30. The outstanding amount would ordinarily be repaid on the next collection day, which falls on September 29 (September 30 being a Saturday).

A $1 million overpayment collected on June 30 and refunded on September 29 would have generated 91 days of interest: (91/366) X .0551 X $1,000,000 = $13,699.73.[3]

The FDIC is adopting the three-month Treasury rate because it is a published rate that more closely (but not necessarily exactly) approximates the market value of funds both for the institution and for the FDIC. If an institution overpays its assessment, the FDIC will return to the institution the benefit that the institution would have been able to obtain by investing the excess amount. Conversely, if an institution underpays its assessment, the institution will have to restore to its fund—the Bank Insurance Fund (BIF) or the Savings Association Insurance Fund (SAIF)—the economic value of the interest that the fund would otherwise have earned.

The FDIC will apply the new rate (and the quarterly compounding) prospectively, not retroactively. The FDIC will apply the new rate to quarterly payments due for the first quarter of 1996 and thereafter, and to

[3] The third calendar quarter in 1995 falls within the leap-year cycle that begins on March 1, 1995, and ends on February 29, 1996.

any outstanding amounts owed to or by the FDIC on and after January 1, 1996. For amounts owed to or by the FDIC during intervals prior to January 1, 1996, the FDIC will continue to apply the then-current TFRM rate (and the annual compounding) for those intervals.

4. The Assessment-Schedule Notice

The FDIC's assessment regulation specifies that the FDIC must announce in advance the semiannual assessment rate schedule for BIF members, together with the amount and basis for any adjustment to the rate schedule. The FDIC must make the announcement 45 days before the invoice date for the first payment of the semiannual period. 12 CFR 327.9(b)(3)(ii).

The FDIC is amending this provision by reducing the advance-notice period to 15 days. The amendment was not proposed for comment, and is unrelated to the other amendments made by the final rule. The primary reason for this technical amendment is to enable the FDIC to use more current financial information to determine the assessment rate schedule for the upcoming semiannual period.

Under the final rule, the announcement date for the first semiannual period moves from October 16 to November 15. The announcement date for the second semiannual period moves from April 15 to May 15.

When the FDIC adopted the 45-day advance notice period, the FDIC's primary concern was to assure that there would be ample time after the time the Board established an assessment rate schedule for the staff to provide and issue assessment invoices to insured institutions. When the Board issued the proposed and final rules on the BIF assessment regulation it assumed the invoice preparation process would take up to 45 days.

The FDIC's operating systems have improved, however. The FDIC now believes that the invoice preparation process can be completed within a 15-day period. Reducing the advance-notice period from 45 days to 15 days would create an opportunity for the FDIC to utilize additional information as it becomes available during the intervening 30 days. This information would include, but would not be limited to, the following:

- Updated fund balance information, which is calculated monthly.
- Updated market information, including financial-market data and economic conditions.
- Call Report data that reflect current revisions and corrections and, therefore, are more complete.

A shortening of the timetable for announcing a change in assessment rates from 45 days to 15 days would provide the FDIC with additional information that could be used to determine the appropriate assessment rates for the upcoming semiannual assessment period. The FDIC could utilize the relevant information to arrive at a more informed judgment of the assessment rates necessary to maintain the BIF reserve ratio at the statutorily mandated Designated Reserve Ratio, and to set the "adjustment factor" for changes in the assessment rate schedule.

It must be recognized that the institutions themselves will still have 45 days' notice from the time the FDIC notifies them of the assessment rate schedule to the time the payment is due. 12 CFR 327.3. For example, the announcement notice for the payment due on January 1, will be provided no later than November 15.

C. Summary of Comments

The FDIC's Board of Directors received comments for a period of 30 days. The Board considered that the shorter comment period was necessary in order to implement the proposal within the available time-frame.

The FDIC received 15 comments on the proposed rule: eight from banks; five from bankers' associations; and two from bank holding companies.

1. Payment Dates for First Payments

a. The Regular Payment Date

Seven banks, all five bankers' associations, and one holding company explicitly supported the January payment date.

The remaining bank supported it implicitly. The bank did not address the January payment date. Instead, the bank called for equivalent changes to be made to the other payment dates: it said that the payment dates for the second, third, and fourth calendar quarters should each be moved to the start of those quarters. The FDIC believes that a change of this kind raises questions of its own that would need to be the subject of public comment. Accordingly, the FDIC is not adopting the suggestion at this time, but is taking the issue under advisement.

The other holding company did not expressly comment on this matter. The holding company did not object to the January payment date. The holding company merely noted that it would probably elect the alternate payment date for its subsidiaries.

b. The Alternate Payment Date

Five banks, all five bankers' associations, and one bank holding company explicitly supported the proposal to allow institutions to make their first payments on the alternate payment date.

The bank holding company observed that it would have to file a certification for each of its insured institutions. The holding company did not ask the FDIC to alter the proposal on this point, and the FDIC has not done so. Nevertheless, the FDIC will take under advisement the issue of allowing bank holding companies to file the necessary certifications on behalf of their banking subsidiaries.

One bankers' association remarked that the term "prepayment"—which was used in the proposed rule—might lead to adverse tax consequences, and suggested labeling the earlier payment as an "alternate payment." The FDIC has adopted this suggestion.

One bank objected to the alternate payment date. The bank said it could not see why any financial institution would avail itself of the option. The bank further declared that banks would be required to choose the option, and the FDIC would be required to keep track of the choices, as well as contend with two payment schedules. The bank declared that the option would thereby create unnecessary work for both regulators and regulated institutions—and could even lead to the alternate payment date eventually becoming required once more. The FDIC does not consider, however, that the alternate payment date creates excessive work either for itself or for insured institutions. The FDIC further believes that many institutions may well take advantage of the alternate payment date, and that the benefits of this option far outweigh its costs.

Two banks and one holding company did not address this issue.

One bank and one bank holding company said the election should remain in effect until revoked. The rule as proposed so provided; the final rule does so as well.

2. Doubled Payments

Four banks, three bankers' associations, and one bank holding company expressly supported the doubled-payment option.

One bankers' association asked the FDIC to make the doubled-payment option available to institutions that make their first quarterly payment on the regular January payment date, and not merely to those that elect the alternate December payment date. The FDIC has considered this matter and has concluded that few or no institutions would want to make a doubled payment after the beginning of a calendar quarter.

Accordingly, the FDIC believes that it is sufficient to offer the doubled-payment option for the December payment date.

The same bankers' association suggested that the FDIC should offer the doubled-payment option for payments due in the second semiannual period too. The FDIC has adopted and expanded upon this suggestion, by making the doubled-payment option available on all payment dates (including the alternate payment date) that occur before the start of the quarter to which the payment applies.

The other commenters did not focus on the doubled-payment issue.

3. Interest on Underpaid and Overpaid Assessments

None of the commenters objected to the FDIC's proposal to cease using the TFRM rate.

Five banks, two bankers' associations, and one bank holding company supported the FDIC's proposal to use the coupon equivalent rate on the 3-month Treasury bill.

Two banks, two bankers' associations, and one bank holding company did not address this point.

One banker's association said that an appropriate interest rate should meet three criteria:

—The rate should have a neutral impact on business decisions;
—The rate should be reasonably stable; and
—The rate should be publicly available.

The FDIC considers that the rate adopted in this final rule—namely, the coupon equivalent rate set on the 3-month Treasury bill at the last auction held by the U.S. Treasury Department before the start of each quarter—meets these criteria.

The bankers' association called upon the FDIC to use the Federal Funds rate averaged over the quarter of the overpayments and underpayments; one bank also called on the FDIC to adopt the Federal Funds rate. The bank said that the Federal Funds rate was the rate it would have received on the funds but for the overcharge. The bankers' association likewise said that the Federal Funds rate represents the true alternative cost of funds to insured institutions. The FDIC considers, however, that it is more appropriate to use the rate set at the Treasury auction because the FDIC invests its funds with the Treasury Department, and not in the Federal Funds market.

The bankers' association pointed out that any mechanism for selecting a rate that is based on a single date can be subject to volatility. The bankers' association suggested that, as an alternative, the FDIC should consider using an average of the rates set in the last four weekly Treasury auctions prior to the start of a quarter. The bankers' association said the one-month average would produce a more stable, yet still current, market rate. The FDIC considers, however, that it is more appropriate to use the rate generated in the most recent Treasury auction because that rate more closely represents the rate in effect at the time the FDIC collects the overpayment or underpayment.

4. The Assessment-Schedule Notice

The FDIC did not ask for comments on this amendment.

D. Effect on the Insurance Funds

1. Payment Dates for First Payments

a. The Regular Payment Date

The shift in the payment date for first payments is not expected to have any substantial adverse impact on the insurance funds.

In the case of the BIF, the maximum amount of the interest foregone as a result of delaying the collection is not expected to exceed $600,000. The actual amount of the foregone interest is likely to be considerably less, as many BIF members can be expected to take advantage of the alternate payment date. Accordingly, the FDIC considers that the BIF will not suffer any material harm by the loss of this revenue.

In the case of the SAIF, the foregone interest is not expected to exceed $108,000. Here again, the actual amount is likely to be considerably less. While this sum is not insubstantial, the FDIC believes that its loss will not materially harm the SAIF under current conditions, and will not impede the SAIF's progress toward recapitalization.

b. The Alternate Payment Date

The alternate payment date would benefit the funds. The funds would receive payments from institutions that elect this option several days before the funds would otherwise do so. The funds would therefore have the use of the money, without being obliged to pay interest.

2. Doubled Payments

The doubled-payment option, like the alternate payment date, would benefit the funds. The funds would receive payments in advance, and would not be required to pay interest on them.

3. Interest on Underpaid and Overpaid Assessments

The change from the TFRM rate to the new rate is not expected to have any material adverse impact on either the BIF or the SAIF. The net yearly amount routinely subject to the interest rate—that is, the net of the amounts that institutions routinely overpay, minus the amounts they routinely underpay—is approximately $2,000,000 per year in the aggregate for both funds.

This amount represents a net overpayment. It is outstanding for 60 days on average; accordingly, at the TFRM rate, the FDIC has ordinarily paid out a net annual amount of approximately $16,000 in interest. Under the new rate, the FDIC will pay out approximately $18,000 yearly—for a net change to the funds of just $2,000.

4. The Assessment-Schedule Notice

The change in the assessment-schedule notice would not affect the funds.

E. Assessment of the Reporting or Record-Keeping Requirements

1. Payment Dates for First Payments

a. The Regular Payment Date

The final rule delays the payment date for the first payment of each year, without changing the procedures that institutions must follow in order to make that payment. The FDIC considers that, in this regard, the final rule's reporting or record-keeping requirements will be minimal.

b. The Alternate Payment Date

The FDIC further believes that the burden of the one-time filing to elect the alternate payment date will be so small as to be immaterial. The final rule does not require the institution to retain the certification form, or to file a new certification each year, or to keep any other new records.

2. Doubled Payments

In the same vein, the FDIC believes that the burden of the one-time filing to elect the doubled-payment option will be so small as to be immaterial. The final rule does not require the institution to retain the certification form, or to file a new certification each year, or to keep any other new records.

3. Interest on Underpaid and Overpaid Assessments

The changes in the interest rate will have no effect on the reporting or record-keeping requirements of insured institutions.

4. The Assessment-Schedule Notice

The change in the assessment-schedule notice would not affect the reporting or record-keeping requirements of insured institutions.

F. Effect on Competition

The regulation is not expected to have any effect on competition among insured depository institutions.

G. Relationship of the Regulation to Other Government Regulations

The regulation is not expected to have any impact on other government regulations.

H. Cost-Benefit Analysis

1. Payment Dates for First Payments

a. The Regular Payment Date

The FDIC believes that the January payment date will not impose any new costs on institutions. On the contrary, it will benefit them by allowing them to retain the use of their funds for an extra interval. The final rule will provide a special benefit to cash-basis institutions by eliminating an expense they will otherwise have sustained in 1995.

b. The Alternate Payment Date

The alternate payment date will provide significant benefits. The FDIC believes that institutions will elect the alternate payment date only if doing so is advantageous to them. On the other hand, the only costs incurred by electing institutions are the costs of signing and submitting the certification. The FDIC considers that those costs are not likely to be material.

2. Doubled Payments

In the same vein, institutions will elect the doubled-payment option only if doing so will provide a significant benefit to them. The only costs incurred by electing institutions are the costs of signing and submitting the certification, which are not likely to be material.

3. Interest on Underpaid and Overpaid Assessments

The change from the TFRM rate to the new rate will likewise impose minimal costs on institutions. The net amount at issue will not be material in the aggregate. For any particular institution, the net effect of the change will be impossible to predict, because the relationship between the TFRM rate and the new rate varies from one interval to another.

Accordingly, the FDIC believes that the benefits of the final rule will likely outweigh any costs it might impose.

4. The Assessment-Schedule Notice

The change in the assessment-schedule notice does not impose any direct costs on insured institutions. Indirectly, the change is expected to provide a benefit to them, by reducing the likelihood of errors in the assessment process.

I. Other Approaches Considered

1. Retaining the Status Quo

a. The Payment Schedule

The FDIC considered retaining the current schedule without change. As noted above, however, the FDIC recognizes that it was responsible for establishing the original December 1995 payment date. The FDIC further recognizes that cash-basis institutions—ones that keep their financial records and make their financial reports on a cash basis—might be adversely affected if they were required to make a payment on that date. The FDIC believes that, if it can mitigate harm of this kind by modifying its regulations, it should make every effort to do so.

b. Interest on Underpaid and Overpaid Assessments

The FDIC also considered retaining the TFRM rate without change. The FDIC believed, however, that the rigidities and delays inherent in the TFRM rate militate against retaining this interest-rate standard.

2. Alternative Proposal

a. The Payment Schedule

The FDIC considered retaining the current payment schedule, while giving cash-basis institutions the option of electing to defer their first payment until January.

This alternative proposal focused narrowly on the one-time disadvantage that cash-basis institutions will suffer in 1995, and aimed at protecting those institutions against that disadvantage. Accordingly, the alternative proposal did not offer the deferred-payment option to non-cash-basis institutions, and did not offer the option to any institutions after 1995.

Under the alternative proposal, institutions that exercised the option by November 1, 1995, would have made their first payment for 1996 on the first business day following January 1, 1996, and would have continued thereafter to make the first payment on the first business day of the year. Institutions that failed to exercise the option by November 1, 1995, would have had to make all their payments according to the regular payment schedule.

After an institution had made the election, the institution could have terminated the election—thereby reverting to the regular payment schedule—by so certifying to the FDIC in writing. For the termination to be effective for a given year, the institution would have had to provide the certification to that effect to the FDIC no later than November 1 of the prior year. The termination would have been permanent. The FDIC would not have charged interest on the delayed payments.

The FDIC has chosen to issue the final rule, rather than the alternative proposal, for two reasons. The approach set forth in the final rule is more evenhanded: all institutions will have the benefit of the later payment date, and all will have an equal opportunity to earn additional interest on their funds. The final rule also provides greater flexibility to all institutions to plan the timing of their expenses.

b. Interest on Underpaid and Overpaid Assessments

The FDIC also considered replacing the single TFRM rate with a pair of rates: namely, the composite yield at market of the BIF and SAIF portfolios, respectively. These rates would have been determined retrospectively, because they are generated by looking at the interest that the portfolios actually earned. For the second quarter of 1995, the rates would have been 5.70% for the BIF and 5.61% for the SAIF.

The FDIC would have adopted the "composite yield at market" rate on the theory that such a rate would represent the FDIC's actual benefits (or costs) from the overcollection (or undercollection) of assessments. If an institution overpaid its assessment, the FDIC would have returned to the institution the full benefit that the FDIC had received from the overpayment. Conversely, if an institution underpaid its assessment, the institution would have restored to its fund the economic value of the interest the fund will otherwise have earned, making the fund whole.

The FDIC has adopted the new rate, rather than the "composite yield at market" rate, for two reasons. First, the new rate is based on a published rate, not on proprietary information, and is easier for people in the private sector to determine. Second, the new rate is intended to approximate the market value of the funds—that is, the interest that an institution earned or may have earned by investing the funds—rather than the vagaries of the investment portfolios of the BIF and the SAIF.

J. Effective Dates

1. Payment Dates for First Payments

a. The Regular Payment Date

The FDIC is making the change in the payment date for the first payment effective upon publication in the **Federal Register**. The Board of Directors

has determined that the new payment schedule "relieves a restriction" within the meaning of 5 U.S.C. 553(d)(1), because it delays the date on which the FDIC regularly collects the first payments, and thereby allows institutions to retain their funds for an extra interval. The Board of Directors has further determined that there is "good cause" to make this aspect of the final rule effective upon adoption because institutions should have as much time as possible to adjust to the new collection schedule and to decide whether to take advantage of the election options provided by the final rule.

The FDIC is making this revision to the payment schedule effective at once, rather than delaying the effective date for 30 days, see 5 U.S.C. 553(d).

b. The Alternate Payment Date

The Board of Directors has likewise determined that there is "good cause" to make the final rule effective upon adoption with respect to the availability of the alternate payment date because institutions should have as much time as possible to decide whether to take advantage of this option.

The FDIC is also making this revision to the payment schedule effective at once, rather than delaying the effective date for 30 days, *see* 5 U.S.C. 553(d).

2. Doubled Payments

The Board of Directors has determined that the doubled-payment option "relieves a restriction" within the meaning of 5 U.S.C. 553(d)(1), because it gives institutions additional flexibility to arrange their financial affairs. In addition, the Board of Directors has determined that there is "good cause" to make the final rule effective upon adoption with respect to the doubled-payment option because institutions should have as much time as possible to decide whether to take advantage of this option.

The FDIC is making this revision to the payment schedule effective at once, rather than delaying the effective date for 30 days, see 5 U.S.C. 553(d).

3. Interest on Underpaid and Overpaid Assessments

The FDIC is making the revision of the interest rate effective 30 days after publication of the final rule in the **Federal Register**, in accordance with 5 U.S.C. 553(d).

4. The Assessment-Schedule Notice

The FDIC considers that the decision to establish an advance-notice period—and, accordingly, the decision to shorten the period—is a rule of "agency * * * practice" within the meaning of the Administrative Procedure Act (5 U.S.C. 553), and that notice and comment are therefore not required. The advance-notice period is not required by statute. The FDIC has adopted the advance-notice period *sua sponte*, reflecting "the FDIC's intent promptly to make public the basis for any Board decision to adjust the rate schedule." See 60 FR 42680, 42740.

The FDIC designed the original advance-notice period with its own internal constraints in mind, and those constraints have changed. Accordingly, the Board of Directors has determined that there is good cause to shorten the advance-notice period without the notice and public participation that are ordinarily required by the Administrative Procedure Act.

Furthermore, the Board of Directors has determined that good cause exists for waiving the customary 30-day delayed effective date. The FDIC has only recently made the determination that the BIF has recapitalized. The Board considers that it is particularly important that the revenue to be generated in the current assessment cycle will accurately reflect the current status of the BIF and the assessment bases of the institutions.

The FDIC is therefore making this revision to the payment schedule effective at once, rather than delaying the effective date for 30 days, see 5 U.S.C. 553(d).

K. Paperwork Reduction Act

The proposed rule would have provided that, if an institution selected the alternate payment date, the institution could then select the doubled-payment option as well. Because the two elections were linked, the FDIC developed a single form for them: the form for electing the alternate payment date also asked institutions to specify the amount they would pay.

The FDIC was concerned that, by asking for this additional piece of information, the FDIC was engaging in the "collection of information" within the meaning of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Accordingly, the FDIC asked the Office of Management and Budget (OMB) to review the proposal and submitted the proposed form to OMB for approval. OMB has approved the collection of information and the form.

The final rule does away with the need for OMB's review and approval, however. The final differs from the proposed rule by separating the procedure for selecting the alternate payment date from the procedure for selecting the doubled-payment option. Each procedure has its own form. Each form contains the appropriate certification and specifies the initial payment with respect to which the institution is making the election.

An institution that signs a form does no more than identify itself. Self-identification in this manner does not constitute "information" within the meaning of the Paperwork Reduction Act.

L. Regulatory Flexibility Act

The Board hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The final rule mitigates a cost incurred by certain smaller entities—namely, cash-basis depository institutions—that arises from the one-time shift from the semiannual assessment process to the new quarterly assessment schedule. The final rule further confers a benefit on all institutions (including smaller institutions) by allowing them to earn interest on their funds for an additional interval.

To the extent that an institution might incur a cost in connection with preparing and submitting the paperwork necessary to make the election, the FDIC believes that the cost will be minimal, and will be far outweighed by the resulting benefit. In any case, each institution's decision to make the election is purely voluntary. The final rule does not compel an institution to accept any cost of this kind.

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, Banking, Freedom of information, Reporting and recordkeeping requirements, Savings associations.

For the reasons stated in the preamble, the Board of Directors of the FDIC is amending 12 CFR Part 327 as follows:

PART 327—ASSESSMENTS

1. The authority citation for part 327 continues to read as follows:

Authority: 12 U.S.C. 1441, 1441b, 1817–1819.

2. Section 327.3 is amended by revising paragraphs (c)(2), (d)(2), (e), and (f) and by adding paragraphs (c)(3) and (j) to read as follows:

§ 327.3 Payment of semiannual assessments.

* * * * *

(c) * * *

(2) *Payment date and manner.* Except as provided in paragraphs (c)(3) and (j)

of this section, the Corporation will cause the amount stated in the applicable invoice to be directly debited on the appropriate regular payment date from the deposit account designated by the insured depository institution for that purpose, as follows:

(i) In the case of the first quarterly payment for a semiannual period that begins on January 1, the regular payment date is January 2; and

(ii) In the case of the first quarterly payment for a semiannual period that begins on July 1, the regular payment date is the preceding June 30.

(3) *Alternate payment date.*—(i) *Election.* An insured depository institution may elect to pay the first quarterly payment for a semiannual period that begins on January 1 of a current year on the alternate payment date. The alternate payment date is December 30 of the prior year.

(ii) *Certification.* (A) In order to elect the alternate payment date with respect to a current semiannual period, an institution must so certify in writing in advance. In order for the election to be effective with respect to the current semiannual period, the Corporation must receive the certification no later than the prior November 1.

(B) The certification shall be made on a pre-printed form provided by the Corporation. The form shall be signed by the institution's chief financial officer or such other officer as the institution's board of directors may designate for that purpose. The form shall be sent to the attention of the Chief of the Assessment Operations Section of the Corporation's Division of Finance. An institution may obtain the form from the Corporation's Division of Finance.

(C) The election of the alternate payment date shall be effective with respect to the semiannual period specified in the certification and thereafter, until terminated.

(iii) *Termination.* (A) An insured depository institution may terminate its election of the alternate payment date, and thereby revert to the regular payment date, by so certifying in writing to the Corporation in advance. In order for the termination to be effective for a current semiannual period, the Corporation must receive the termination certification no later than the prior November 1.

(B) The termination certification shall be made on a pre-printed form provided by the Corporation. The form shall be signed by the institution's chief financial officer or such other officer as the institution's board of directors may designate for that purpose. The form shall be sent to the attention of the Chief of the Assessment Operations Section of the Corporation's Division of Finance. An institution may obtain the form from the Corporation's Division of Finance.

(C) The termination shall be permanent, except that an institution that has terminated an election may make a new election under paragraph (c)(3)(i) of this section.

(iv) *Manner of payment.* Except as provided in paragraph (j) of this section, if an insured depository institution elects the alternate payment date, the Corporation will cause the amount stated in the applicable invoice to be directly debited on the alternate payment date from the deposit account designated by the insured depository institution for that purpose.

(d) *Second-quarterly payment.* * * *

(2) Except as provided in paragraph (j) of this section, the Corporation will cause the amount stated in the applicable invoice to be directly debited on the appropriate regular payment date from the deposit account designated by the insured depository institution for that purpose, as follows:

(i) In the case of the second quarterly payment for a semiannual period that begins on January 1, the regular payment date is March 30; and

(ii) In the case of the second quarterly payment for a semiannual period that begins on July 1, the regular payment date is September 30.

(e) *Necessary action, sufficient funding by institution.* Each insured depository institution shall take all actions necessary to allow the Corporation to debit assessments from the insured depository institution's designated deposit account. Each insured depository institution shall, prior to each payment date indicated in paragraphs (c)(2), (c)(3)(i), and (d)(2) of this section, ensure that funds in an amount at least equal to the invoiced amount (or twice the invoiced amount if the insured depository institution has elected the doubled-payment option pursuant to paragraph (j) of this section) are available in the designated account for direct debit by the Corporation. Failure to take any such action or to provide such funding of the account shall be deemed to constitute nonpayment of the assessment.

(f) *Business days.* If a payment date specified in paragraph (c)(2)(i) falls on a date that is not a business day, the applicable date shall be the following business day. If a payment date specified in paragraph (c)(1), (c)(2)(ii), (c)(3)(i), or (d)(2) of this section falls on a date that is not a business day, the applicable date shall be the previous business day.

* * * * *

(j) *Doubled-payment option.*—(1) *Election.* In the case of a quarterly payment to be made on March 30, on June 30, on September 30, or on the alternate payment date, an insured depository institution may elect to pay twice the amount of such quarterly payment.

(2) *Certification.* (i) In order to elect the doubled-payment option with respect to a selected payment date, an institution must so certify in writing to the Corporation in advance. In order for the election to be effective, the Corporation must receive the certification by the following dates: in the case of a quarterly payment to be made on March 30, June 30, or September 30, the Corporation must receive the certification no later than the prior February 1, May 1, or August 1, respectively; in the case of a quarterly payment to be made on the alternate payment date, the Corporation must receive the certification by the prior November 1.

(ii) The certification shall be made on a pre-printed form provided by the Corporation. The form shall be signed by the institution's chief financial officer or such other officer as the institution's board of directors may designate for that purpose. The form shall be sent to the attention of the Chief of the Assessment Operations Section of the Corporation's Division of Finance. An institution may obtain the form from the Corporation's Division of Finance.

(iii) The election shall be effective with respect to the selected quarterly payment for the year specified in the certification and with respect to subsequent quarterly payments made on the selected payment date in subsequent years, until the election is terminated.

(3) *Termination.* (i) An insured depository institution may terminate its election of the doubled-payment option for a selected payment date by so certifying in writing to the Corporation in advance. In order for the termination to be effective, the Corporation must receive the termination certification by the following dates: In the case of a quarterly payment to be made on March 30, June 30, or September 30, the Corporation must receive the termination certification no later than the prior February 1, May 1, or August 1, respectively; in the case of a quarterly payment to be made on the alternate payment date, the Corporation must receive the termination certification by the prior November 1.

(ii) The termination certification shall be made on a pre-printed form provided by the Corporation. The form shall be signed by the institution's chief financial officer or such other officer as

the institution's board of directors may designate for that purpose. The form shall be sent to the attention of the Chief of the Assessment Operations Section of the Corporation's Division of Finance. An institution may obtain the form from the Corporation's Division of Finance.

(iii) The termination shall be permanent, except that an institution that has terminated its election of the doubled-payment option for a selected payment date may make a new election.

(4) *Manner of payment.* If an insured depository institution elects the doubled-payment option for a selected payment date, the Corporation will cause an amount equal to twice the amount stated in the applicable invoice to be directly debited on the selected payment date from the deposit account designated by the insured depository institution for that purpose.

3. Section 327.7 is amended by revising paragraphs (a)(2), (a)(3), and (b) and adding paragraph (c) to read as follows:

§ 327.7 Payment of interest on assessment underpayments and overpayments.

(a) * * *

(2) *Payment by Corporation.* (i) The Corporation will pay interest on any overpayment by the institution of its assessment.

(ii) When an institution elects the alternate payment date pursuant to § 327.3(c)(3), or otherwise pays an amount due on a regular payment date before that date, the payment of the invoiced amount prior to the regular payment date shall not be regarded as an overpayment of an assessment.

(iii) When an institution elects the doubled-payment option pursuant to § 327.3(j), the payment of any amount in excess of the invoiced amount shall not be regarded as an overpayment of an assessment.

(3) *Accrual of interest.* (i) Interest on an amount owed to or by the Corporation for the underpayment or overpayment of an assessment shall accrue interest at the relevant interest rate.

(ii) Interest on an amount specified in paragraph (a)(3)(i) of this section shall begin to accrue on the day following the regular payment date, as provided for in § 327.3(c)(2) and (d)(2), for the amount so overpaid or underpaid, provided, however, that interest shall not begin to accrue on any overpayment until the day following the date such overpayment was received by the Corporation. Interest shall continue to accrue through the date on which the overpayment or underpayment (together with any interest thereon) is discharged.

(iii) The relevant interest rate shall be redetermined for each quarterly assessment interval. A quarterly assessment interval begins on the day following a regular payment date, as specified in § 327.3(c)(2) and (d)(2), and ends on the immediately following regular payment date.

(b) *Rates after the first payment date in 1996.* (1) On and after January 3, 1996, the relevant interest rate for a quarterly assessment interval that includes the month of January, April, July, and October, respectively, is the coupon equivalent yield of the average discount rate set on the 3-month Treasury bill at the last auction held by the United States Treasury Department during the preceding December, March, June, and September, respectively.

(2) The relevant interest rate for a quarterly assessment interval will apply to any amounts overpaid or underpaid on the payment date (whether regular or alternate) immediately prior to the beginning of the quarterly assessment interval. The relevant interest rate will also apply to any amounts owed for previous overpayments or underpayments (including any interest thereon) that remain outstanding, after any adjustments to such overpayments or underpayments have been made thereon, at the end of the regular payment date immediately prior to the beginning of the quarterly assessment interval.

(c) *Rates prior to the first payment date in 1996.* Through January 3, 1996—

(1) The interest rate will be the United States Treasury Department's current value of funds rate which is issued under the Treasury Fiscal Requirements Manual (TFRM rate) and published in the **Federal Register**;

(2) The interest will be calculated based on the rate issued under the TFRM for each applicable period and compounded annually;

(3) For the initial year, the rate will be applied to the gross amount of the underpayment or overpayment; and

(4) For each additional year or portion thereof, the rate will be applied to the net amount of the underpayment or overpayment after that amount has been reduced by the assessment credit, if any, for the year.

4. Section 327.9 is amended by removing the number "45" in paragraph (b)(3)(ii) and adding in lieu thereof the number "15".

By order of the Board of Directors.

Dated at Washington, D.C. this 26th day of September, 1995.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 95–24245 Filed 9–28–95; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ACE–07]

Amendment to Class E Airspace; Clay Center, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace area at Clay Center, KS to accommodate a planned Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS). This action will provide additional controlled airspace for aircraft executing the SIAP to Clay Center Municipal Airport.

EFFECTIVE DATE: 0901 UTC, January 4, 1996.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Air Traffic Operations Branch, ACE–530C, Federal Aviation Administration, 601 E. 15th St., Kansas City, MO 64106; telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:

History

On July 25, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying the Class E airspace area at Clay Center, KS (60 FR 37972). The proposed action would provide additional controlled airspace to accommodate a GPS SIAP to Runway 17 at the Clay Center Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in FAA Order 7400.9C, par. 6005, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR

part 71) amends the Class E airspace area at Clay Center, KS, by providing additional controlled airspace for aircraft executing the GPS Runway 17 SIAP to the Clay Center Municipal Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995 and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending from 700 feet or more above the surface of the earth

* * * * *

ACE KS E5 Clay Center, KS [Revised]

Clay Center Municipal Airport, KS
(Lat. 39°23'14"N., long. 97°09'26"W)
Clay Center NDB
(Lat. 39°22'51"N., long. 97°09'40"W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Clay Center Municipal Airport and within 2.6 miles each side of the 167° bearing from the Clay Center NDB extending from the 6-mile radius to 7 miles southeast of the airport and within 2 miles each side of the 001° bearing from the Clay Center Municipal Airport extending from the 6-mile radius to 10 miles north of the airport.

* * * * *

Issued in Kansas City, MO, on September 11, 1995.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 95–24281 Filed 9–28–95; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 95–ANM–13]

Amendment of Class E Airspace; Sheridan, Wyoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Sheridan, Wyoming, Class E airspace to accommodate a new instrument approach procedure at Sheridan County Airport. This amendment brings publications up-to-date giving continuous information to the aviation public.

EFFECTIVE DATE: 0901 UTC, January 4, 1996.

FOR FURTHER INFORMATION CONTACT: James Riley, ANM–537, Federal Aviation Administration, Docket No. 95–ANM–13, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number: (206) 227–2537.

SUPPLEMENTARY INFORMATION:

History

On July 31, 1995, the FAA proposed to amend part 71 of Federal Aviation Regulations (14 CFR part 71) by amending the Sheridan, Wyoming, Class E airspace designation (60 FR 38977). Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

This action is the same as the proposal except for a typographical error discovered (and corrected herein) in the coordinates for the Sheridan County Airport and mileage southeast of the Sheridan VORTAC. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace is published in Paragraphs 6002 and 6005, respectively, of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of Federal Aviation Regulations amends Class E airspace at Sheridan, Wyoming. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments re necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, 14 CFR part 71 is amended a follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g). 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, September 16, 1995, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport

* * * * *

ANM WY E2 Sheridan, WY [Revised]

Sheridan County Airport, WY
(Lat. 44°46'15"N, long. 106°58'43"W)
Sheridan VORTAC
(Lat. 44°50'32"N, long. 107°03'40"W)

Within a 4.5-mile radius of the Sheridan County Airport, and within 4.5 miles each side of the 157° bearing from the airport, extending from the 4.5-mile radius to 17.6 miles southeast of the airport, and within 3.5 miles each side of the Sheridan VORTAC 312° and 327° radials extending from the 4.5-miles radius to 10.1 miles northwest of the VORTAC, and within 3.5 miles each side of the Sheridan VORTAC 140° radial extending from the 4.5-mile radius to 21.4 miles southeast of the VORTAC. This Class E.

airspace area is effective during the specific dates and times established in advance by a Notice to Airmen., The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ANM WY E5 Sheridan, WY [Revised]

Sheridan County Airport, WY
(Lat. 44°46'15"N, long. 106°58'43"W)

Sheridan VORTAC

(Lat. 44°50'32"N, long. 107°03'40"W)

That airspace extending upward from 700 feet above the surface within a 6.1-mile radius of the Sheridan County Airport; that Airspace extending upward from 1,200 feet above the surface within 6.1 miles southwest and 8.7 miles northeast of the Sheridan VORTAC 138° and 318° radials extending from 16.1 miles northwest to 29.6 miles southeast of the VORTAC, and that airspace southeast of Sheridan bounded on the north by a line located 4.3 miles south of and parallel to the Sheridan VORTAC 104° radial, on the east by a 30.5-mile radius of the Sheridan VORTAC, and on the south by a line located 8.7 miles north of and parallel to the Sheridan VORTAC 138° radial.

* * * * *

Issued in Seattle, Washington, on September 14, 1995.

Helen Fabian Parke,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 95–24282 Filed 9–28–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1915 and 1926

RIN 1218–AB25

Occupational Exposure to Asbestos

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule; amendments.

SUMMARY: This document corrects the Asbestos final rule which was published August 10, 1994 (59 FR 40964, 29 CFR 1915.1001 and 1926.1101) and corrected and clarified June 29, 1995 (60 FR 33974).

EFFECTIVE DATE: These amendments take effect on October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Cyr, Acting Director of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 219–8151.

SUPPLEMENTARY INFORMATION: OSHA issued improved asbestos standards for general industry, construction, and shipyard employment on August 10, 1994 at 59 FR 40964 to better protect workers from lung cancer, asbestosis and other diseases caused by asbestos exposure. OSHA published a notice correcting and clarifying certain provisions on June 29, 1995. This document further corrects and clarifies various provisions of the construction and shipyards employment standards. The general industry standard is not further amended.

Because the corrections are based on the existing rulemaking record and are not intended to affect the protection afforded by the standard in a significant way, OSHA finds good cause, pursuant to 29 CFR 1911.15 and the Administrative Procedure Act, for promulgating the corrections without notice and opportunity for public comment.

OSHA briefly describes in this preamble, changes to the regulatory text of the standards which are more than typographical in nature.

In both the construction and shipyards standards paragraph (g)(7)(iii) is redesignated as (g)(7)(ii)(C) to clarify that dropcloths are required beneath all indoor removal activity.

OSHA has determined that when gaskets are removed intact, wet methods are not required. Therefore, paragraph (g)(8)(iv)(B) is deleted and the word "wet" is removed from (g)(8)(iv)(C). The standard still requires that when gaskets are visibly deteriorated, they must be removed using glovebags and wet methods.

Paragraph (g)(11) of 1926.1101 and paragraph (g)(12) of 1915.1001 are revised to allow bituminous or asphaltic pipeline coating to be handled using the same "alternative methods" set forth in the June 1995 correction notice, for certain bituminous/resinous roofing materials. OSHA recognizes that asphaltic wrap is similar to these roofing materials because the highly effective material used to bind asbestos fibers, is the same. A new paragraph (g)(11)(vi) of the construction standard (1926.1101) and (g)(12)(vi) of the shipyard employment standard (1915.1001) is added to specify that activities that disturb asphaltic pipeline wrap must be performed using wet methods. Submissions by Exxon to the 1994 rulemaking record which indicate that these activities generate low fiber levels were performed using wet methods (Docket H033e, Exhibit 127).

In the preamble to the June 29 **Federal Register** correction document, OSHA stated its intention to allow the use of powered air-purifying respirators adequately fitted to give a good face seal when exposure assessment and monitoring data indicate that asbestos exposure levels do not exceed 1.0 fibers per cubic centimeter as an 8-hour time weighted average. However, this provision was inadvertently omitted from the regulatory text. Paragraph (h)(2)(v) of both standards is corrected to include this provision.

Paragraph (o)(4) of both standards is corrected to allow competent/qualified person training to be obtained in a course that meets the EPA criteria for supervisors, one which is state-approved, or one which is equivalent in stringency, content, and length. This restores the August 10, 1994 regulatory text allowing training in state-approved courses for competent/qualified persons which was inadvertently omitted from the June 19 document.

List of Subjects in 29 CFR Parts 1915 and 1916

Asbestos, Occupational Safety and Health.

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, pursuant to sections 4, 6(b), 8(c), and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act, 40 U.S.C. 333); Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); 5 U.S.C. Sec. 553; and 29 CFR Part 1911; 29 CFR Parts 1915 and 1926 are amended as set forth below.

Signed at Washington, DC this 25th day of September, 1995.

Joseph A. Dear,

Assistant Secretary, Occupational Safety and Health Administration.

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

§ 1915.1001 [Amended]

1. and 2. The authority citation of 29 CFR Part 1915 continues to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers Compensation Act (33 U.S.C. 941); sections 4, 6, and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); sec. 4 of the Administrative Procedure Act (5 U.S.C. 553); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–

83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable; 29 CFR Part 1911.

§ 1915.1001 [Amended]

3. In § 1915.1001, paragraph (g)(7)(iii) is redesignated as (g)(7)(ii)(C), and a new paragraph (g)(7)(iii) is added and reserved.

4. and 5. In § 1915.1001, paragraph (g)(8)(iv)(B) is removed and reserved.

6. In § 1915.1001, paragraph (g)(8)(iv)(C) is revised to read as follows:

§ 1915.1001 Asbestos.

* * * * *

(g) * * *

(8) * * *

(iv) * * *

(C) The gasket shall be immediately placed in a disposal container.

* * * * *

7. In § 1915.1001, paragraph (g)(12) introductory text is revised to read as follows:

* * * * *

(g) * * *

(12) Alternative methods of compliance for installation, removal, repair, and maintenance of certain roofing and pipeline coating materials. Notwithstanding any other provision of this section, and employer who complies with all provisions of this paragraph (g)(12) when installing, removing, repairing, or maintaining intact pipeline asphaltic wrap, or roof cements, mastics, coatings, or flashings which contain asbestos fibers encapsulated or coated by bituminous or resinous compounds shall be deemed to be in compliance with this section. If an employer does not comply with all provisions of this paragraph (g)(12), or if during the course of the job the material does not remain intact, the provisions of paragraph (g)(8) of this section apply instead of this paragraph (g)(12).

* * * * *

8. In § 1915.1001, paragraph (g)(12)(vi) is added to read as follows:

* * * * *

(g) * * *

(12) * * *

(vi) All removal or disturbance of pipeline asphaltic wrap shall be performed using wet methods.

* * * * *

9. In § 1915.1001, paragraph (h)(2)(v) is revised to read as follows:

* * * * *

(h) * * *

(2) * * *

(v) In addition to the selection criteria in paragraph (h)(2)(i) through (iv), the employer shall provide a tight-fitting powered air purifying respirator equipped with high efficiency filters or a full facepiece supplied air respirator operated in the pressure demand mode equipped with HEPA egress cartridges or an auxiliary positive pressure self-contained breathing apparatus for all employees within the regulated area where Class I work is being performed for which a negative exposure assessment has not been produced and, the exposure assessment indicates the exposure level will not exceed 1 f/cc as an 8-hour time weighted average. A full facepiece supplied air respirator operated in the pressure demand mode equipped with an auxiliary positive pressure self-contained breathing apparatus shall be provided under such conditions, if the exposure assessment indicates exposure levels above 1 f/cc as an 8-hour time weighted average.

* * * * *

10. In § 1915.1001, paragraph (o)(4)(i) is revised to read as follows:

* * * * *

(o) * * *

(4) * * *

(i) For Class I and II asbestos work the qualified person shall be trained in all aspects of asbestos removal and handling, including: Abatement, installation, removal and handling; the contents of this standard; the identification of asbestos; removal procedures, where appropriate; and other practices for reducing the hazard. Such training shall be obtained in a comprehensive course for supervisors, that meets the criteria of EPA's Model Accreditation Plan (40 CFR part 763, subpart E, Appendix C), such as a course conducted by an EPA-approved or state-approved training provider, certified by EPA or a state, or a course equivalent in stringency, content, and length.

* * * * *

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

1. and 2. The authority citation of subpart Z of 29 CFR Part 1926 continues to read as follows:

Authority: Sections 6 and 8, Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033) as applicable; and 29 CFR Part 1911.

Section 1926.1101 also issued under 5 U.S.C. 553.

Section 1926.1102 not issued under 29 U.S.C. 655 or 29 CFR Part 1911; also issued under 5 U.S.C. 553.

Section 1926.1103 through 1926.1118 also issued under 29 U.S.C. 653.

Section 1926.1128 also issued under 29 U.S.C. 653.

Section 1926.1145 and 1926.1147 also issued under 29 U.S.C. 653.

Section 1926.1148 also issued under 29 U.S.C. 653.

§ 1926.1101 [Amended]

3. In § 1926.1101, paragraph (g)(7)(iii) is redesignated as (g)(7)(ii)(C), and a new paragraph (g)(7)(iii) is added and reserved.

4. and 5. In § 1926.1101, paragraph (g)(8)(iv)(B) is removed and reserved.

6. In § 1926.1101, paragraph (g)(8)(iv)(C) is revised to read as follows:

§ 1926.1101 Asbestos.

* * * * *

(g) * * *

(8) * * *

(iv) * * *

(c) The gasket shall be immediately placed in a disposal container.

* * * * *

7. In § 1926.1101, paragraph (g)(11) introductory text is revised to read as follows:

* * * * *

(g) * * *

(11) Alternative methods of compliance for installation, removal, repair, and maintenance of certain roofing and pipeline coating materials. Notwithstanding any other provision of this section, an employer who complies with all provisions of this paragraph (g)(11) when installing, removing, repairing, or maintaining intact pipeline asphaltic wrap, or roof cements, mastics, coatings, or flashings which contain asbestos fibers encapsulated or coated by bituminous or resinous compounds shall be deemed to be in compliance with this section. If an employer does not comply with all provisions of this paragraph (g)(11), or if during the course of the job the material does not remain intact, the provisions of paragraph (g)(8) of this section apply instead of this paragraph (g)(11).

* * * * *

8. In § 1926.1101, paragraph (g)(11)(vi) is added to read as follows:

* * * * *

(g) * * *

(11) * * *

(vi) All removal or disturbance of pipeline asphaltic wrap shall be performed using wet methods.

* * * * *

9. In § 1926.1101, paragraph (h)(2)(v) is revised to read as follows:

* * * * *

(h) * * *

(2) * * *

(v) In addition to the selection criteria in paragraphs (h)(2)(i) through (iv), the employer shall provide a tight-fitting powered air purifying respirator equipped with high efficiency filters or

a full facepiece supplied air respirator operated in the pressure demand mode equipped with HEPA egress cartridges or an auxiliary positive pressure self-contained breathing apparatus for all employees within the regulated area where Class I work is being performed for which a negative exposure assessment has not been produced and, the exposure assessment indicates the exposure level will not exceed 1 f/cc as an 8-hour time weighted average. A full facepiece supplied air respirator operated in the pressure demand mode equipped with an auxiliary positive pressure self-contained breathing apparatus shall be provided under such conditions, if the exposure assessment indicates exposure levels above 1 f/cc as an 8-hour time weighted average.

* * * * *

10. In § 1926.1101, paragraph (o)(4)(i) is revised to read as follows:

* * * * *

(o) * * *

(4) * * *

(i) For Class I and II asbestos work the competent person shall be trained in all aspects of asbestos removal and handling, including: abatement, installation, removal and handling; the contents of this standard; the identification of asbestos; removal procedures, where appropriate; and other practices for reducing the hazard. Such training shall be obtained in a comprehensive course for supervisors that meets the criteria of EPA's Model Accreditation Plan (40 CFR part 763, subpart E, Appendix C), such as a course conducted by an EPA-approved or state-approved training provider, certified by EPA or a state, or a course equivalent in stringency, content, and length.

* * * * *

[FR Doc. 95–24171 Filed 9–28–95; 8:45 am]
BILLING CODE 4510–26–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2627, 2645, and 2674

RIN 1212–AA77

Display of OMB Control Numbers

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; technical amendments.

SUMMARY: This document amends the PBGC's final regulations on Disclosure to Participants (29 CFR Part 2627), Extension of Special Withdrawal Liability Rules (29 CFR Part 2645), and Notice of Insolvency (29 CFR Part 2674) to display the applicable OMB control numbers.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation is amending several of its regulations to display the applicable Office of Management and Budget control numbers as required by 5 CFR 1320.4 and 1320.5. All of the collections of information contained in Parts 2627, 2645, and 2674 have been approved by OMB.

List of Subjects in 29 CFR Parts 2627, 2645, and 2674

Pension insurance, Pensions, Reporting and recordkeeping requirements.

Accordingly, 29 CFR Parts 2626, 2645, and 2674 are amended as follows:

PART 2627—DISCLOSURE TO PARTICIPANTS

1. The authority citation for part 2627 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1311.

2. A new § 2627.11 is added to read as follows:

§ 2627.11 OMB control number.

The collections of information contained in this part have been approved by the Office of Management and Budget under OMB control number 1212–0050.

PART 2645—EXTENSION OF SPECIAL WITHDRAWAL LIABILITY RULES

3. The authority citation for part 2645 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1383(f), 1388(e)(3).

4. A new § 2645.5 is added to read as follows:

§ 2645.5 OMB control number.

The collections of information contained in this part have been approved by the Office of Management and Budget under OMB control number 1212–0023.

PART 2674—NOTICE OF INSOLVENCY

5. The authority citation for part 2674 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1426(e).

§ 2674.5 [Amended]

6. At the end of § 2674.5, the words "(Approved by the Office of Management and Budget under control number 1212–0033)" are removed.

§ 2674.6 [Amended]

7. At the end of § 2674.6, the words "(Approved by the Office of Management and Budget under control number 1212–0033)" are added.

Issued in Washington, DC, this 22d day of September 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–24220 Filed 9–28–95; 8:45 am]
BILLING CODE 7708–01–M

DEPARTMENT OF EDUCATION

34 CFR Part 80

Education Department General Administrative Regulations; Cost Principles for State, Local and Indian Tribal Governments

AGENCY: Department of Education.

ACTION: Announcement regarding the revision of certain cost principles.

SUMMARY: The Secretary announces the applicability of revised Office of Management and Budget (OMB) Circular A–87, "Cost Principles for State, Local and Indian Tribal Governments," as revised by OMB in the **Federal Register** of May 17, 1995 (60 FR 26484). This Circular establishes principles for determining allowable costs incurred by State, local, and Indian tribal governments under certain agreements with the Federal Government.

While the Department has decided to make this circular apply to grants and subgrants made on or after October 1, 1995, this notice also permits flexibility for costs incurred after July 1, 1995.

DATES: This notice takes effect for grants and subgrants awarded on or after on October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Richard T. Mueller, U.S. Department of Education, Grants and Contracts Service, Room 3652 ROB, 600 Independence Ave., SW. Washington, DC 20202–4201. Telephone: (202) 708–8787. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On March 11, 1988, the Secretary published 34

CFR Part 80—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (53 FR 8071). This regulatory action was the result of the Department's participation in the common rule developed by Federal agencies for administering grants and cooperative agreements awarded to State, local, and Indian tribal governments. Part 80 established Circular A–87 as the cost principles used by the Secretary of Education for determining allowable costs of State, local, and Indian tribal governments under grants and cooperative agreements with the Department. (34 CFR 80.22.)

When Part 80 was published, it was the practice of the Department to adopt circulars in the regulations by citing a specific circular publication date (See 34 CFR 80.22(b)). Now, the Department makes OMB circulars applicable through notices such as this one. Thus, the Department will make conforming amendments to 34 CFR 80.22 to eliminate the obsolete publication date for Circular A–87.

On May 17, 1995, OMB published a revision of Circular A–87 (60 FR 26484). This notice announces the applicability for 34 CFR Part 80 of the revision made by OMB, binding recipients of Department of Education grants and cooperative agreements to the requirements of Circular A–87 as revised on May 17, 1995. These cost principles apply to State, local, and Indian tribal governments, except to the extent that the principles are inconsistent with specific statutes or Departmental program or administrative regulations. The revised Circular is effective for grants and cooperative agreements made by ED on or after October 1, 1995 and for subgrants made under those awards on or after that date. The cost principles in Circular A–87 are also cross-referenced in the Department's administrative regulations applicable to institutions of higher education, hospitals, and nonprofit organizations, at 34 CFR 74.27(b).

The Secretary is aware that the revised circular contains areas of flexibility which were not contained in the prior cost principles and that could be beneficial to State, local and Indian tribal governments. The Department has made substantial grant awards, primarily to States, since July 1, 1995, and the recipients of these awards may desire to benefit from the more flexible rules in the revised A–87. Considering this, the Department has determined that it will permit recipients for which the Department has cognizance to charge direct costs which are consistent with the revised Circular for the period July 1, 1995 through the end of the 1996 fiscal year. However, States and other governmental authorities that have State-wide cost allocation plans and indirect cost rates in effect for parts of fiscal year 1996 based on costs allowable under the prior A–87 may not amend those agreements prior to their expiration.

Waiver of Proposed Rulemaking

It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules in accordance with the Administrative Procedure Act (5 U.S.C. 553). However, since OMB previously provided the public an opportunity for comment on the revision of Circular A–87 on October 12, 1988 (53 FR 40352) and August 19, 1993 (58 FR 44212), the Secretary finds that soliciting further public comment with respect to adopting the revised circular is unnecessary and contrary to the public interest under 5 U.S. C. 553(b)(B). For the same reason, the Secretary finds good cause under 5 U.S.C. 553(d) to waive the thirty-day delayed effective date.

Nonetheless, in light of recently enacted legislation—the Improving America's School Act, the Goals 2000: Educate America Act, and the School-to-Work Opportunities Act—the Secretary is interested in receiving suggestions or ideas from the States and local and Indian tribal governments and other interested parties about improving the application of the Circular based on the flexibility provided in these new laws.

The Secretary has already received and is reviewing letters from several States since the Circular's publication, concerning such areas as time distribution and the determination of reasonable and necessary expenditures of program funds.

The Secretary encourages States, local and Indian tribal governments, and other interested parties, as partners in Federal program management, to maintain an open dialogue with Department officials about matters covered in Circular A–87, including accounting practices that promote efficient administrative practices, support effective delivery of program services, and conserve resources.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: September 26, 1995.

Donald R. Wurtz,

Chief Financial Officer.

[FR Doc. 95–24381 Filed 9–28–95; 8:45 am]

BILLING CODE 4000–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 202

[Docket No. 95–1B]

Restoration of Certain Berne and WTO Works

AGENCY: Copyright Office, Library of Congress.

ACTION: Final regulations

SUMMARY: The Copyright Office is issuing final regulations establishing procedures that govern the filing of Notices of Intent to Enforce copyright (NIEs) and the registering of copyright claims to restored works as required by the Uruguay Round Agreements Act. The Act automatically restores copyright for certain foreign works effective January 1, 1996. Although restoration is automatic, the copyright owner may file a Notice of Intent to Enforce the Restored Copyright with the Copyright Office in order to enforce rights against reliance parties.

EFFECTIVE DATE: These final regulations are effective October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

I. Background

On December 8, 1994, President Clinton signed the "Uruguay Round Agreements Act" (URAA), Pub. L. No. 103–465, 108 Stat. 4809. The URAA contains several significant copyright amendments. It amends the software rental provision found in 17 U.S.C. 109(b) by eliminating the expiration or sunset date, amends Titles 17 and 18 to create civil and criminal remedies for "bootlegging" sound recordings of live musical performances and music videos, and adds a new 17 U.S.C. 104A which restores copyright in certain foreign works. The URAA also gives the Copyright Office several responsibilities related to restoration of those works.

A. Restoration of Copyright in Eligible Works

Under the URAA, restoration of copyright in works from countries which are currently eligible occurs automatically on January 1, 1996. An eligible country is a nation, other than the United States, that is a member of the Berne Convention, [1] or a member of

[1] Convention concerning the creation of an International Union for the Protection of Literary

the World Trade Organization, or is the subject of a presidential proclamation declaring its eligibility.

Works from any source country eligible under the URAA may be subject to automatic copyright restoration. However, to be so restored, a work must meet certain other requirements:

1. It is not in the public domain in its source country through expiration of the term of protection;

2. It is in the public domain in the United States due to noncompliance with formalities imposed at any time by United States copyright law, lack of subject matter protection in the case of sound recordings fixed before February 15, 1972, or lack of national eligibility;

3. It has at least one author or rightholder who was, at the time the work was created, a national or domiciliary of an eligible country;

4. If published, it was first published in an eligible country and was not published in the United States during the 30-day period following publication in such eligible country.

Notwithstanding the fact that the work meets the above requirements, any work ever owned or administered by the Alien Property Custodian and in which the restored copyright would be owned by a government or instrumentality thereof, is not a restored work.

B. Effective Date of Restoration

Eligible copyrights are restored automatically on the date the Agreement on Trade Related Aspects of Intellectual Property (TRIPs) enters into force with respect to the United States (URAA, section 514(a)). As discussed in the Notice of Policy Decision and Public Meeting, the Copyright Office has concluded that the effective date of copyright restoration is January 1, 1996. 60 FR 7793 (Feb. 9, 1995). President Clinton has confirmed that the date on which the obligations of the TRIPs Agreement will take effect for the United States is January 1, 1996. Proclamation No. 6780, 60 FR 15845 (Mar. 27, 1995).

II. The Copyright Office's Responsibilities

Although copyright restoration is automatic for eligible works, the URAA charged the Office with establishing regulations to govern the filing of Notices of Intent to Enforce (NIEs) restored copyrights and the registering of copyright claims in restored works by no later than October 1, 1995.

The Act also requires the Office to publish a list in the **Federal Register** identifying restored works and their ownership where NIEs have been filed with the Office. The Office must also maintain a list containing all NIEs for inspection and copying by the public.

A. Notices of Intent To Enforce

1. Notification of Reliance Party

The URAA directs the owner of a restored work to notify reliance parties if the owner of the rights in a restored work plans to enforce those rights. A reliance party is typically a business or individual who, relying on the public domain status of a work, was already using the work prior to December 8, 1994, the date of enactment of the URAA. [2] The URAA authorizes the owner of a right in a restored work either to provide actual notice by serving a NIE directly on a reliance party or to provide constructive notice through the filing of a NIE with the Copyright Office.

2. Effective Filing Date

A work whose source country is a member of the Berne Convention or the World Trade Organization on January 1, 1996, is restored on that date. The owner of such a work may file a NIE concerning that work between January 1, 1996, and December 31, 1997. The Office will publish the first listing of NIEs no later than May 1, 1996, and will publish lists at regular four-month intervals for a period of two years thereafter.

In the case of works from any source country which became eligible for restoration under the URAA after January 1, 1996, owners of such works may file NIEs with the Copyright Office for a two year period starting from the date that country became eligible. The Office will also publish a list of NIEs as detailed above, for works from any of those countries, but the time frame for such lists will be measured from the date a particular country becomes eligible.

3. Effect of Notice on Reliance Party

A reliance party has a twelve-month period to sell off previously manufactured stock, to publicly perform or display the work, or to authorize others to conduct these activities. This period begins when the owner of a restored work notifies the reliance party that the owner is enforcing copyright in the identified work. The date runs from either the date of publication in the **Federal Register** identifying the work or receipt of actual notice. If Notice of Intent to Enforce a Restored Copyright is provided both by publication in the **Federal Register** and service on the reliance party, the period runs from whichever date is the earlier, the date of **Federal Register** publication or service of actual notice. All reliance parties, except those who created certain derivative works, must cease using the work at the end of the twelve-month period unless they reach a licensing agreement with the copyright owner for continued use of the restored work.

B. Registration of Copyright Claims in Restored Works

The second filing that the owner of a restored work may choose to make with the Copyright Office is an application for registration of a copyright claim. Copyright registration is voluntary; the URAA directs the Office to have procedures for such registration, but it does not require owners of the restored works to register. Although the owner of a work not considered a Berne work as defined in 17 U.S.C. 101 must obtain or seek registration for a work before he or she can bring a copyright infringement action, the owner of rights in a Berne work does not have to register before initiating suit. [3]

It is true that the holder of a copyright certificate of registration may secure some procedural advantages in litigating a copyright suit based on the effective date of registration. If registration is made before or within 5 years of publication, it will establish prima facie evidence in court of the validity of the copyright and of the facts stated in the certificate; and if registration is made within 3 months after publication of the work or prior to an infringement of the work, statutory damages and attorney's fees will be available to the copyright owner in court actions. Otherwise, only an award of actual damages and profits is available to the copyright owner.

III. The Comments

A. Comments Submitted

The Copyright Office sought public comment concerning the implementation of the URAA both prior to and after publication of its Notice of Proposed Rulemaking (NPRM). The Office first published a notice inviting interested parties to submit written comments and/or to attend a public meeting held at the Copyright Office on March 20, 1995, to discuss issues

and Artistic Works (Sept. 9, 1886, revised in 1908, 1928, 1948, 1967, 1971), hereinafter cited as the Berne Convention.

[2] This is true for the great majority of works. However, for works from any country which was not eligible under the URAA as of December 8, 1994, reliance parties would be those using the work before the date on which that country becomes an eligible country by joining Berne, the WTO, or as a result of a Presidential proclamation.

[3] It would seem that this exception would apply only to works that meet the definition of a "Berne Convention work" in 17 U.S.C. 101.

related to NIEs and registration of restored works. 60 FR 7793 (Feb. 9, 1995). The Office sent this notice to over ninety authors rights organizations and industry groups, as well as 182 foreign government agencies with copyright authority, to give them the opportunity to respond. Approximately forty individuals attended the meeting, including representatives from authors' rights organizations, museums, the publishing industry, the film industry, and the computer software industry. [4] Fifteen written comments were submitted. The Office considered all of these views as it developed proposed procedures for the filing of NIEs and the registering of copyright claims in restored works. On July 10, the Office published proposed regulations in the **Federal Register**. 60 FR 35522 (July 10, 1995).

In the Notice of Proposed Rulemaking, the Office invited interested parties to submit written comments on the proposed regulations. The Office received comments from the following parties: The Association of American Publishers (AAP); Irwin Karp; Janine Lorente, for Société des Auteurs et Compositeurs Dramatiques (SACD); Nancy McAleer, for Thomson & Thomson; Bill Patry; David Pierce; Linda Shaughnessy, for AP Watt Ltd. Literary Agents; Ellen Theg, for International Television Trading Corp.; and Richard Wincor, of Coudert Brothers.

The Office notes that some of the comments received in response to the NPRM had already been addressed, and some called for minor clarifications that have been made to the final regulations. Other comments, whether raised for the first or second time, raise substantive issues that are discussed below.

B. Issues Related to Notices of Intent To Enforce

1. Formality

Ms. Shaughnessy stated that since copyright restoration is to occur automatically, the procedures for filing NIEs are exceptionally onerous. She asserted it should be sufficient to file one NIE for all of the titles of one author. Ms. Shaughnessy illustrated her point by noting that she will be filing for 73 authors, but there will be hundreds of titles involved. Comment 3. Ms. Lorente asserted that the NIE is a formality in violation of at least the spirit of Berne and that because reliance parties are free to continue to exploit restored works in the United States unless a NIE is filed, an author cannot exercise his or her rights in the restored work automatically. Comment 5, at 1.

The Copyright Office again emphasizes that the restoration of copyright in certain foreign works considered in the public domain in the United States creates a conflict between reliance parties' and copyright owners' legitimate concerns. Reliance parties have invested capital and labor in the lawful exploitation of public domain property; the sudden restoration of copyright divests them of these investments. Without some provision addressing this potential loss, there could be challenges based on the "taking" clause of the Fifth Amendment of the U.S. Constitution. On the other hand, it is important that the United States restore copyright protection in certain foreign works. The United States arguably failed to conform its law fully to the Berne Convention in 1989 when it declined to interpret Article 18(1) on restoration [5] as being mandatory. The U.S. Justice Department in its review of the URAA legislation concluded that under existing precedents interpreting the Fifth Amendment, the Notice of Intent to Enforce the Restored Copyright avoided an unconstitutional "taking." [6] Thus, the Justice Department considered these provisions as critical.

We believe that such a filing is not inconsistent with the Berne Convention because Article 18(3) [7] of the Berne Convention specifically permits member nations to determine "conditions" for applying the principles of restoration. Copyright restoration occurs automatically; the URAA merely creates a narrow set of conditions requiring notification to reliance parties. Moreover, the information sought on the NIEs is calculated to assist in the voluntary licensing of the restored work. The decision of Congress to enact these provisions is, therefore, supported by the legitimate interests of both reliance parties and copyright owners, by constitutional considerations, and by Article 18(3) of the Berne Convention.

The Office has tried, however, to make the procedures for filing NIEs practical, realizing that too detailed requirements would burden the owner and that too general ones would serve neither the owner nor the user of the restored work.

The Office also notes that the URAA makes such filings less onerous by permitting the owner to notify all reliance parties of a restored work by filing in one central place, the Copyright Office. Only if the owner does not file with the Copyright Office within the appropriate time period, as detailed above, must the owner provide actual notice to each user of a restored work in order to enforce rights.

The Office is permitting an owner of multiple works to file one NIE if each work is identified by title, has the same author, is owned by the same identified copyright owner or owner of an exclusive right, and the rights owned are the same.

2. Effective Date

Mr. Patry stated that January 1, 1995, is the initial date of copyright restoration. Comment 2, at 1. Mr. Karp asserted that the effective date of 104(A) is December 8, 1994, but that first restoration of copyrights will occur on January 1, 1996. Comment 8, at 2. The Office reaffirms its recognition of January 1, 1996, as the effective date of initial copyright restoration.

3. Minor Errors or Omissions

Ms. Lorente noted that it is often impossible for foreign authors to know the English language title under which a work is being exploited, especially as it is often not a literal translation. She, therefore, asked that a NIE not be invalidated if it gives the literal translation of the foreign title, and later it is determined that the English language title under which the work is exploited is different from the one given in the NIE. Comment 5, at 2.

All information on the NIE other than the original title of the foreign work must be completed in English. The law requires that an English translation of a foreign title be given on the NIE; it does not specify that it be the English title under which the work was exploited.

The Copyright Office will record the NIE under the titles that are provided; ultimately only a court can determine the validity of a NIE. However, the Office believes that a reasonable construction of the statute's

[4] A copy of all written comments and a summary of the meeting can be found in the Public Information Office of the Copyright Office, Room LM–401, James Madison Memorial Building, Washington, D.C.

[5] This Convention shall apply to all works which, at the moment of its coming into force, have not yet fallen into the public domain in the country of origin through the expiry of the term of protection. Berne Convention art. 18(1)(Paris text).

[6] See Memorandum from Chris Schroeder, Counsellor to the Assistant Attorney General, Office of Legal Counsel, United States Dept. of Justice to Ira S. Shapiro, General Counsel, USTR, on Whether Certain Copyright Provisions in the Draft Legislation to Implement the Uruguay Round of Multilateral Trade Negotiations Would Constitute a Taking Under the Fifth Amendment (July 29, 1994).

[7] The application of this principle shall be subject to any provisions contained in special conventions to that effect existing or to be concluded between countries of the Union. In the absence of such provisions, the respective countries shall determine, each in so far as it is concerned, the conditions of application of this principle. Berne Convention art. 18(3) (Paris text).

requirements would permit good faith discrepancies in the English translation.

Furthermore, the URAA allows a party who has filed a NIE with the Copyright Office to correct minor errors or omissions by further notice at any time after the NIE is filed. The procedures and fees are the same for filing a NIE which corrects a previously filed NIE, except that the party making the correction should refer to previous NIE's volume and page number in the Copyright Office Documents Records, if known, on the corrected NIE.

4. Additional Information

The AAP asked the Office to require copyright owners to expand on the information contained in the NIEs, such as the format on which first the work was fixed (film, disk, etc.), contributors (editors, publishers, or director, animator, screenwriter, cinematographer, etc.) and for photographs, collections, etc. a description (material/subjects, organization, and/or classification). The AAP also asked the Office to request an e-mail address, names and addresses of any agents, representatives, or collecting societies that can serve as licensing authorities. The AAP suggested that the Office consider incentives such as fee discounts, for those providing more complete information. Comment 7, at 6–8. Ms. Theg asked that the year of creation be included in the NIE instead of the year of publication, since she believed it to be more consistently available. Comment 9, at 2.

The Office has incorporated some of the AAP's suggestions into the NIE format and hopes it has struck an appropriate balance in its NIE by requesting information helpful to reliance parties, while not burdening the filer of the NIE with lengthy and detailed suggested information.

5. Accessible and Useful Public Record

The URAA requires the Copyright Office to publish the titles and owners of restored works in the **Federal Register**. Since publication in the **Federal Register** is costly and the parties indicated that such information would not be as accessible as information made available via the Internet, the Office is limiting the information published in the **Federal Register** to what the law requires. Much of the information contained in the NIE will be available on COPICS, the Copyright Office's automated database of registrations and recorded copyright transfers and other documents. These records may be accessed by the public on terminals in the Copyright Office at the Library of Congress and are also available via the Internet.

Since Internet access is not universal, Ms. Lorente asked that other means of getting information about NIEs, including written inquiries to the Copyright Office, should not be excluded. Comment 5, at 3. The AAP stated that it would be useful if the database could be searched in directories that listed all works restored in a particular country of origin. Comment 7, at 11. The AAP also asked that each work/title be given in a separate entry in the database. Comment 7, at 9.

Traditional search methods will continue to be available; NIEs may be searched in the COPICS database under the name of the owner, the titles it contains, as well as the names of the authors, if given. Although the Office will not index works by country of origin in the COPICS database or provide separate entries in the database for multiple works listed on one NIE, each work can be easily identified since the database is searchable by title, author, and the owner or owner of an exclusive right.

Finally, though online access will be the primary means for providing this information to the public, upon request the Copyright Office staff will search the records at the rate of $20 for each hour or fraction thereof and furnish a written report. Search requests should be sent to the Reference and Bibliography Section, Copyright Office, Library of Congress, Washington, D.C. 20559–6000. In addition, individuals may come to the Office and do their own search free of charge.

6. Filing Fee

Ms. Lorente stated that restoration of copyright should be automatic, and without a fee, comment 5, at 3, and Ms. Shaughnessy asked that only one fee be charged for all the works of an author. Comment 3.

The Office notes that all of the works involved have been considered in the public domain in the United States. The URAA provides that restoration of eligible works is automatic, and a NIE may be filed directly on a reliance party. However, a notice which is effective against all reliance parties may be filed with the Copyright Office. The Office must examine and record that notice, issue an acknowledgement, create a catalog entry that includes among other things all the titles, publish the information in the **Federal Register**, and maintain the online catalog of the information. The URAA gives the Office authority to fix reasonable fees based on these costs.

The Office realizes that requiring a filing on each work of an author will be onerous and we will permit multiple works meeting the criteria described in our regulations to be filed on one notice for a lesser fee.

7. Acknowledgement

Ms. Lorente, Mr. Pierce and Ms. Theg all asserted that it is essential that the Copyright Office confirm the filing of a NIE. Ms. Lorente stated that it is very important that an author or agent have a document providing that he or she has complied with the URAA's provisions. See comment 5, at 2; comment 6, at 1; and comment 9, at 3. Ms. McAleer stressed that the acknowledgement of the recording of a NIE is an essential service because of the possibility that the NIE may be misplaced, causing its publication in the **Federal Register** to be delayed. Comment 4.

The Office will mail an acknowledgement of recordation to the filer of a NIE, including the date of receipt, the volume and page on which the NIE is recorded, and the anticipated date of publication in the **Federal Register**. The Office will not issue a certificate of recordation. Completed recordations will appear in the COPICS database and the **Federal Register**.

8. Transfers

Mr. Pierce asked that the Office require NIE filers, other than the author, to reference documents of transfer by date, parties and rights transferred, if any. He stated that this would decrease fraud and be less burdensome than filing the agreements with the Documents Unit of the Copyright Office. Comment 6, at 2.

While the Copyright Office agrees that such a requirement might be useful, it cannot adopt this requirement since it is not authorized by the URAA.

9. Federal Register Publication

The AAP agreed that, compared to the online database, the lists published in the **Federal Register** would be of secondary importance. AAP suggested, however, that the **Federal Register** entry also include the name of the author if possible. Comment 7, at 11.

In order to minimize costs, the Office has concluded that only the minimum information (title, name of the first owner or owner of an exclusive right identified on the NIE), will be included in the list of NIEs published in the **Federal Register**.

C. Issues Related to Registration of a Restored Work

1. Simultaneous Registration

Ms. Lorente asserted that registration is a second formality, and asked for simultaneous filing of NIEs and registration of copyright claims. She also argued both should be automatic and at no additional cost. Comment 5, at 2. Ms. Theg asked that the application for registration be modified to include the additional information requested in the NIE so that the NIE filing requirements could be satisfied at the time of making an application for registration. Comment 9, at 1.

As discussed earlier, procedures permitting the copyright registration of restored works are not formalities in violation of the Berne Convention. Registration is entirely voluntary for Berne works since copyright registration of restored works is not a prerequisite for the filing of a copyright infringement action. Registration of a claim in a work involves significant additional work and by law requires a fee. The Office has, however, attempted to keep the processing work and the fees to a minimum.

2. New URAA Related Registration Procedures

Mr. Pierce observed that registration, especially of motion pictures, is often very burdensome for foreign works, because of the difficulty in determining original publication dates and in submitting a copy of the work as first released. He concluded that applications will be filed for only a small percentage of the works unless the Office considers adopting more liberal deposit requirements such as accepting PAL, SECAM, VHS formats or written descriptions, allowing the registration of related works with multiple publication dates on one application, accepting approximate publication dates, and accepting a previously submitted deposit instead of requiring a new deposit. Comment 6, at 2. Ms. Theg asked that deposit requirements be waived entirely. Comment 9, at 2.

On the other side, the AAP questioned the necessity for changes in the existing registration and recordation systems. If such changes are made, the AAP asserted that they should not create precedent for other registration and deposit practices. The AAP also questioned the need for procedures allowing blanket exemptions in some instances for depositing materials, accepting descriptive materials instead of a copy of the work, and allowing certain collections such as photos or TV series to be given a single identifying group name or title. The AAP is concerned that these procedures will make it difficult for reliance parties to identify restored works and comply with the law. The AAP asked that the Office instead deal with special situations on a case-by-case basis. Comment 7, at 12–16.

The procedures developed for the registration of copyright claims for restored works must both balance the needs of applicants for copyright registration, reliance parties, the public, and the Copyright Office and also establish a system that will be feasible administratively and elicit necessary information. As indicated in our final regulations, these new procedures apply only to works restored under the URAA and NAFTA; they thus have no precedential effect on other filings.

3. Claimant for Registration

Mr. Patry noted that the applicable statutory language relating to the filing of NIEs permits the "owners of restored copyright or the owner of an exclusive right therein" to file a NIE, while the URAA statutory language covering registration indicates that "owners of restored copyrights" may apply for copyright registration. He asserted the statute's failure to mention the owner of an exclusive right in connection with registration means that only an author may file a registration. Comment 2, at 1–2.

The Office agrees that the restored copyright vests initially in the author as determined by the law of the source country of the work. A work, however, is registered in the name of a claimant. 17 U.S.C. 409. "Claimant" is a term of art defined in existing Copyright Office regulations, as either the author of a work or a person or organization that has obtained ownership of all rights under the copyright initially belonging to the author. 37 CFR 202.3(a)(3). Thus, an owner of only an exclusive right would not be permitted to file an application in his or her own name as the copyright claimant, although he or she could submit an application. While the URAA authorizes the Office to adopt regulations permitting owners of restored copyrights to file for registration of the restored copyright, there is nothing in the URAA to suggest that parties who register a restored work are any different from those under existing copyright law and regulations. Moreover, it seems essential to retain the concept of claimant since authors may no longer be alive.

4. Foreign Law

The AAP stated that since URAA registrations may create legal presumptions as to the validity of the copyright and the facts stated on the registration certificate, the Office should question an applicant's determination of foreign law issues. Comment 7, at 15. Mr. Karp asserted that since foreign law questions will arise with respect to many issues related to rights restored, including initial ownership, the Office should accept multiple NIEs or registrations for the same work. Comment 8, at 2.

The Copyright Office will accept such multiple, and possibly adverse, NIEs and registrations for the same work. One of the more difficult issues facing the Office is to what extent foreign law issues should be raised in the registration process. Section 104A(b) of the Act provides: "A restored work vests initially in the author or initial rightholder of the work as determined by the law of the source country of the work." Determining the appropriate source country and the applicable foreign law is a question that must ultimately be resolved by a court. At most, the Office could simply question whether or not an author was in fact the author under the law of the source country. The applicant's answer would have to be accepted. The Office does not, therefore, plan to question an applicant's determination of foreign law issues.

IV. Procedures for Notices of Intent To Enforce

A Copyright Office task force has been meeting for several months to discuss issues related to establishing regulations for URAA filings. The Office also carefully considered the comments made at the public meeting and those submitted by interested parties in response to the Notice of Policy Decision and Public Meeting and the Notice of Proposed Rulemaking. Most of the commentators supported a detailed NIE rather than one limited to the minimal information required by the statute. Based on those comments, the Office is requesting more information from the filer of a NIE than required under the URAA. As provided in the statute, this additional information will not affect the validity of the notice. Additional information such as the identity of the author is essential, however, for efficient and timely identification of a specific work where enforcement of copyright is sought. The additional information will also facilitate the licensing of uses of restored works. Therefore, the Office urges those parties who are filing NIEs to provide as much of this additional information as possible.

A. Format for NIEs

1. Constructive Notice

The Copyright Office will not publish NIE forms; however, a suggested format for NIEs to be filed with the Office is included in the Appendix below. This format is available over the Internet and can be downloaded for use as a form. The suggested format requests information required by the statute and optional information which is extremely useful.

2. Actual Notice

Those parties choosing to serve actual Notice of Intent to Enforce a Restored Copyright on the reliance party should note that the URAA requires additional information. Therefore, if they use the Copyright Office's NIE format as a guide for the actual notice, it will be incomplete unless the additional information specified is added. The URAA specifies:

> Notices of Intent to Enforce a Restored Copyright served on a reliance party shall be signed by the owner or the owner's agent, shall identify the restored work and the work in which the restored work is used, if any, in detail sufficient to identify them, include an English translation of the title, any other alternative titles known to the owner by which the work may be identified, the use or uses to which the owner objects, and an address and telephone number at which the reliance party may contact the owner. If the notice is signed by an agent, the agency relationship must have been constituted in writing and signed by the owner before service of the notice.[8]

104A(e)(2)(B) of the URAA. Actual notices may be served on a reliance party at any time after the work is restored.

3. Who may file a Notice of Intent To Enforce?

A NIE may be filed by someone who has the authority to sign it. The statute says that the NIE must be signed by the owner or the owner's agent. It can also be signed by the owner of any exclusive right in the restored copyright. As noted in the URAA and emphasized in the certification requirement, an agent cannot sign a NIE unless the agency relationship was constituted in writing signed by the owner before the notice is filed. 104A(e)(1)(A)(i) of the URAA.

B. Filing Fee

The filing fee is 30 U. S. dollars[9] for a NIE covering one work; for a NIE covering multiple works the fee is $30 for the first work, plus one dollar for each additional work. This fee includes the cost of an acknowledgement of recordation which will be mailed to the filer after the Copyright Office records the NIE. The regulations provide special instructions for payment of the filing fee, including payment by credit card. These instructions must be followed in order to permit processing of the fee. In addition, the filer of a NIE must insure that sufficient funds are available for payment. Insufficient fees could delay the effective date of notice.

For all URAA filings, both recordation of a NIE and registration of a restored work, the Copyright Office will accept Visa, Master Card and American Express credit cards to facilitate payment in U.S. dollars. Payment by credit card is, however, available only for URAA filings.[10]

C. Certification

The Office requires the filer of a NIE to sign a certification statement at the end of the document filed indicating that the information given is correct to the best of his or her knowledge. The URAA explicitly states that any materially false statement knowingly made with respect to any restored copyright identified in any Notice of Intent shall make void all claims and assertions made with respect to such restored copyright. 104A(e)(3) of the URAA.

D. Mailing Address

Time is critical with processing NIEs, and it is, therefore, important that URAA mail not come in with regular Copyright Office mail. All NIEs should be mailed to: URAA/GATT, NIEs and Registrations, P.O. Box 72400, Southwest Station, Washington, D.C. 20024, USA.

V. Procedures for Registering Copyright Claims in Restored Works

The URAA raises a number of unique considerations regarding the registration of copyright claims in restored works. First, a number of technical requirements, many of which are contained in the definition of "restored work," govern whether a foreign work is subject to automatic restoration under the URAA. In many cases applicants seeking registration will be foreign claimants who are unfamiliar with the registration procedures in the United States Copyright Office. In addition, communication over technical issues may be difficult. Finally, virtually all of the restored copyrights will be older works; and in some cases, submitting a copy or phonorecord of the work will be a problem.

The Copyright Office weighed all of these considerations before developing a procedure for registering copyright claims in restored works. The Office has adopted a simplified procedure, which will still maintain the integrity of the public record and adhere to the provisions of the existing copyright law and the URAA.

The Office will register a claim to United States copyright in any work for which copyright protection is restored by the URAA, even if a registration was previously made before the work entered the public domain in this country. The Office will also register a claim for any work previously registered where the Office originally advised the copyright claimant that there was some doubt concerning compliance with the formal requirements of the law.

A. Registration Forms

Because the URAA creates unique eligibility requirements, the Copyright Office concluded that it should create two new registration forms and a continuation page specifically designed to obtain the information necessary for a GATT registration made under the URAA. They are Form GATT, Form GATT/GRP and Form GATT/CON. The Form GATT covers registration of individual restored works and restored works published under a single series title, Form GATT/GRP covers registration of groups of related restored works under the conditions set forth in the regulations, and the Form GATT/CON is a page providing additional space and may be used with either of the GATT application forms.

B. Deposit Required

In recognition of the difficulty some applicants may have in submitting a deposit of an older work "as first published," the Office has established special deposit regulations for URAA restored works. These regulations permit a deposit of other than the first published edition of the work, if absolutely necessary; applicants should keep in mind, however, that the deposit serves as a crucial part of the public record, and it is their interest to make a complete deposit.

C. Filing Fee

The filing fee for registration is $20, since the Copyright Office believes the work in administering the registration procedure for restored works will be roughly comparable to general

[8] Emphasis added to show additional requirements for actual notice.

[9] All references to charges will be in terms of U.S. dollars.

[10] Acceptance of credit cards for URAA filings will serve as a test, however, by which the Office can determine at a later date the feasibility of accepting credit cards for other registrations and recordations.

registration procedures. In addition, the regulations contain special group registration options which will permit the registration of:

(1) A group of works published under a single series title. Form *GATT* should be used; the fee is $20 for up to a calendar year's worth of episodes, installments, or issues published under the same single series title; and

(2) A group of at least two, but up to ten related individual works published within the same calendar year. Form *GATT/GRP* should be used, the fee is ten dollars per individual work, that is between $20–$100 per application.

The registration regulations contain special instructions for payment of the filing fee, including payment by credit card.

D. Mailing Address

All GATT/URAA applications for registration should be mailed to: URAA/GATT, NIEs and Registrations, P.O. Box 72400, Southwest Station, Washington, DC 20024, USA.

VI. NAFTA

Exactly a year before the URAA was signed into law, Congress enacted the North American Free Trade Agreement Implementation Act (NAFTA) of December 8, 1993, adding a new section 104A to the Copyright Code that allowed copyright restoration in certain Mexican and Canadian works. See generally, **Federal Register** notices leading to the implementation of NAFTA, 59 FR 1408 (Jan. 10, 1994); 59 FR 12162 (Mar. 16, 1994); and 59 FR 58787 (Nov. 15, 1994). Although Congress modeled the URAA provisions on NAFTA, there are significant differences. For example, under the URAA, copyright restoration is automatic; under NAFTA it was not. Moreover, the URAA requires an English translation of the title as part of the NIE, but NAFTA did not require an English translation for NAFTA statements of intent.

In enacting these two laws, Congress intended the restoration provisions to operate separately from one another. Therefore, works restored under NAFTA are not additionally restored under the URAA. It is clear that Congress intended a new section 104A enacted in the URAA, to replace the NAFTA version of section 104A. Unfortunately, the statutory language in the URAA creates some ambiguities. The recent presidential proclamation clarifies some of these questions. 60 FR 15845 (Mar. 27, 1995).

The regulation governing filings under NAFTA will be amended to reflect a reference to the public law. This change is made necessary by the deletion of the NAFTA version of section 104A. In addition, §§ 201.33 and 202.12 of the Copyright Office regulations contain provisions clarifying that works already restored under NAFTA do not additionally fall within the provisions of the URAA.

Despite the differences in NAFTA and URAA notice filings, the registration procedures, including deposit preferences, available for URAA restored works are also available for those works restored under NAFTA.

List of Subjects

37 CFR Part 201

Cable television, Copyright, Jukeboxes, Literary works, Satellites.

37 CFR Part 202

Claims, Copyright.

In consideration of the foregoing, the Copyright Office amends 37 CFR parts 201 and 202 in the manner set forth below:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 is revised to read as follows:

Authority: 17 U.S.C. 702.

2. Section 201.31 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 201.31 Procedures for copyright restoration in the United States for certain motion pictures and their contents in accordance with the North American Free Trade Agreement.

(a) *General.* This section prescribes the procedures for submission of Statements of Intent pertaining to the restoration of copyright protection in the United States for certain motion pictures and works embodied therein as required by the North American Free Trade Agreement Implementation Act of December 8, 1993, Public Law No. 103–182. * * *

* * * * *

3. Section 201.33 is added to read as follows:

§ 201.33 Procedures for filing Notices of Intent to Enforce a restored copyright under the Uruguay Round Agreements Act.

(a) *General.* This section prescribes the procedures for submission of Notices of Intent to Enforce a Restored Copyright under the Uruguay Round Agreements Act, as required in 17 U.S.C. 104A(a). On or before May 1, 1996, and every four months thereafter, the Copyright Office will publish in the **Federal Register** a list of works for which Notices of Intent to Enforce have been filed. It will maintain a list of these works. The Office will also make a more complete version of the information contained in the Notice of Intent to Enforce available on its automated database, which can be accessed over the Internet.

(b) *Definitions*—(1) *NAFTA work* means a work restored to copyright on January 1, 1995, as a result of compliance with procedures contained in the North American Free Trade Agreement Implementation Act of December 8, 1993, Public Law No. 103–182.

(2) *Reliance party* means any person who—

(i) With respect to a particular work, engages in acts, before the source country of that work becomes an eligible country under the URAA, which would have violated 17 U.S.C. 106 if the restored work had been subject to a copyright protection and who, after the source country becomes an eligible country, continues to engage in such acts;

(ii) Before the source country of a particular work becomes an eligible country, makes or acquires one or more copies of phonorecords of that work; or

(iii) As the result of the sale or other disposition of a derivative work, covered under the new 17 U.S.C. 104A(d)(3), or of significant assets of a person, described in the new 17 U.S.C. 104 A(d)(3) (A) or (B), is a successor, assignee or licensee of that person.

(3) *Restored work* means an original work of authorship that—

(i) Is protected under 17 U.S.C. 104A(a);

(ii) Is not in the public domain in its source country through expiration of term of protection;

(iii) Is in the public domain in the United States due to—

(A) Noncompliance with formalities imposed at any time by United States copyright law, including failure of renewal, lack of proper notice, or failure to comply with any manufacturing requirements;

(B) Lack of subject matter protection in the case of sound recordings fixed before February 15, 1972; or

(C) Lack of national eligibility; and

(iv) Has at least one author or rightholder who was, at the time the work was created, a national or domiciliary of an eligible country, and if published, was first published in an eligible country and not published in the United States during the 30-day period following publication in such eligible country.

(4) *Source country* of a restored work is—

(i) A nation other than the United States; and

(ii) In the case of an unpublished work—

(A) The eligible country in which the author or rightholder is a national or domiciliary, or, if a restored work has more than one author or rightholder, the majority of foreign authors or rightholders are nationals or domiciliaries of eligible countries; or

(B) If the majority of authors or rightholders are not foreign, the nation other than the United States which has the most significant contacts with the work; and

(iii) In the case of a published work—

(A) The eligible country in which the work is first published; or

(B) If the restored work is published on the same day in two or more eligible countries, the eligible country which has the most significant contacts with the work.

(c) *Forms.* The Copyright Office does not provide forms for Notices of Intent to Enforce filed with the Copyright Office. It requests that filers of such notices follow the format set out in Appendix A of this section and give all of the information listed in paragraph (d) of this section. Notices of Intent to Enforce must be in English, and should be typed or printed by hand legibly in dark, preferably black, ink, on 8½ by 11 inch white paper of good quality, with at least a one inch (or three cm) margin.

(d) *Requirements for Notice of Intent to Enforce a Copyright Restored Under the Uruguay Round Agreements Act.* (1) Notices of Intent to Enforce should be sent to the following address: URAA/GATT, NIEs and Registrations, P.O. Box 72400, Southwest Station, Washington, DC 20024, USA.

(2) The document should be clearly designated as "Notice of Intent to Enforce a Copyright Restored under the Uruguay Round Agreements Act".

(3) Notices of Intent to Enforce must include:

(i) Required information:

(A) The title of the work, or if untitled, a brief description of the work;

(B) An English translation of the title if title is in a foreign language;

(C) Alternative titles if any;

(D) Name of the copyright owner of the restored work, or of an owner of an exclusive right therein;

(E) The address and telephone number where the owner of copyright or the exclusive right therein can be reached; and

(F) The following certification signed and dated by the owner of copyright, or the owner of an exclusive right therein, or the owner's authorized agent:

I hereby certify that for each of the work(s) listed above, I am the copyright owner, or the owner of an exclusive right, or the owner's authorized agent, the agency relationship having been constituted in a writing signed by the owner before the filing of this notice, and that the information given herein is true and correct to the best of my knowledge.

Signature _____

Name (printed or typed) _____

As agent for (if applicable) _____

Date: _____

(ii) Optional but essential information:

(A) Type of work (painting, sculpture, music, motion picture, sound recording, book, etc.);

(B) Name of author(s);

(C) Source country;

(D) Approximate year of publication;

(E) Additional identifying information (*e.g.* for movies: director, leading actors, screenwriter, animator; for photographs or books: subject matter; for books: editor, publisher, contributors);

(F) Rights owned by the party on whose behalf the Notice of Intent to Enforce is filed (e.g., the right to reproduce/distribute/publicly display/publicly perform the work, or to prepare a derivative work based on the work, etc.); and

(G) Telefax number at which owner, exclusive rights holder, or agent thereof can be reached.

(4) Notices of Intent to Enforce may cover multiple works provided that each work is identified by title, all the works are by the same author, all the works are owned by the identified copyright owner or owner of an exclusive right, and the rights owned by the party on whose behalf the Notice of Intent is filed are the same. In the case of Notices of Intent to Enforce covering multiple works, the notice must separately designate for each work covered the title of the work, or if untitled, a brief description of the work; an English translation of the title if the title is in a foreign language; alternative titles, if any; the type of work; the source country; the approximate year of publication; and additional identifying information.

(5) Notices of Intent to Enforce works restored on January 1, 1996, may be submitted to the Copyright Office on or after January 1, 1996, through December 31, 1997.

(e) *Fee.*

(1) *Amount.* The filing fee for recording Notices of Intent to Enforce is 30 U.S. dollars for notices covering one work. For notices covering multiple works as described in paragraph (d)(4) of this section, the fee is 30 U.S. dollars, plus one dollar for each additional work covered beyond the first designated work. For example, the fee for a Notice of Intent to Enforce covering three works would be $32. This fee includes the cost of an acknowledgement of recordation.

(2) *Method of Payment.* (i) *Checks, money orders, or bank drafts.* The Copyright Office will accept checks, money orders, or bank drafts made payable to the Register of Copyrights. Remittances must be redeemable without service or exchange fees through a United States institution, must be payable in United States dollars, and must be imprinted with American Banking Association routing numbers. International money orders, and postal money orders that are negotiable only at a post office are not acceptable. CURRENCY WILL NOT BE ACCEPTED.

(ii) *Copyright Office Deposit Account.* The Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services. The system allows an individual or firm to establish a Deposit Account in the Copyright Office and to make advance deposits into that account. Deposit Account holders can charge copyright fees against the balance in their accounts instead of sending separate remittances with each request for service. For information on Deposit Accounts please write: Copyright Office, Library of Congress, Washington, DC 20559–6000, and request a copy of Circular 5, "How to Open and Maintain a Deposit Account in the Copyright Office."

(iii) *Credit cards.* For URAA filings the Copyright Office will accept VISA, MasterCard and American Express. Debit cards cannot be accepted for payment. With the NIE, a filer using a credit card must submit a separate cover letter stating the name of the credit card, the credit card number, the expiration date of the credit card, the total amount, and a signature authorizing the Office to charge the fees to the account. To protect the security of the credit card number, the filer must not write the credit card number on the Notice of Intent to Enforce.

(f) *Public online access.*

(1) Almost all of the information contained in the Notice of Intent to Enforce is available online in the Copyright Office History Documents (COHD) file through the Library of Congress electronic information system LC MARVEL through the Internet. Except on Federal holidays, this information may be obtained on terminals in the Copyright Office at the Library of Congress Monday through Friday 8:30 a.m. - 5:00 p.m. U.S. Eastern Time or over the Internet Monday - Friday 6:30 a.m. - 9:30 p.m. U.S. Eastern

Time, Saturday 8:00 a.m. - 5 p.m., and Sunday 1:00 p.m. - 5:00 p.m.

(2) Alternative ways to connect through Internet are: (i) use the Copyright Office Home Page on the World Wide Web at: http://lcweb.loc.gov/copyright, (ii) telnet to locis.loc.gov or the numeric address 140.147.254.3, or (iii) telnet to marvel.loc.gov, or the numeric address 140.147.248.7 and log in as marvel, or (iv) use a Gopher Client to connect to marvel.loc.gov.

(3) Information available online includes: the title or brief description if untitled; an English translation of the title; the alternative titles if any; the name of the copyright owner or owner of an exclusive right; the author; the type of work; the date of receipt of the NIE in the Copyright Office; the date of publication in the **Federal Register**; the rights covered by the notice; and the address, telephone and telefax number (if given) of the copyright owner.

(4) Online records of Notices of Intent to Enforce are searchable by the title, the copyright owner or owner of an exclusive right, and the author.

(g) *NAFTA work.* The copyright owner of a work restored under NAFTA by the filing of a NAFTA Statement of Intent to Restore with the Copyright Office prior to January 1, 1995, is not required to file a Notice of Intent to Enforce under this regulation.

Appendix A to § 201.33—Notice of Intent To Enforce a Copyright Restored Under the Uruguay Round Agreements Act (URAA)

1. Title: _____
(If this work does not have a title, state "No title.") OR
Brief description of work (for untitled works only): _____
_____
2. English translation of title (if applicable):
3. Alternative title(s) (if any): _____
4. Type of work: _____
(e.g. painting, sculpture, music, motion picture, sound recording, book)
5. Name of author(s): _____
6. Source country: _____
7. Approximate year of publication: _____
8. Additional identifying information: _____
(e.g. for movies; director, leading actors, screenwriter, animator, for photographs: subject matter; for books; editor, publisher, contributors, subject matter).
9. Name of copyright owner: _____
(Statements may be filed in the name of the owner of the restored copyright or the owner of an exclusive right therein.)
10. If you are not the owner of all rights, specify the rights you own:
_____
(e.g. the right to reproduce/distribute publicly display/publicly perform the work, or to prepare a derivative work based on the work)
11. Address at which copyright owner may be contacted:
_____
_____
(Give the complete address, including the country and an "attention" line, or "in care of" name, if necessary.)
12. Telephone number of owner: _____
13. Telefax number of owner: _____
14. Certification and Signature:
I hereby certify that, for each of the work(s) listed above, I am the copyright owner, or the owner of an exclusive right, or the owner's authorized agent, the agency relationship having been constituted in a writing signed by the owner before the filing of this notice, and that the information given herein is true and correct to the best of my knowledge.
Signature: _____
Name (printed or typed): _____
As agent for (if applicable): _____
Date: _____

Note: Notices of Intent to Enforce must be in English, except for the original title, and either typed or printed by hand legibly in dark, preferably black, ink. They should be on 8½" by 11" white paper of good quality, with at least a 1-inch (or 3 cm) margin.

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

4. The authority citation for part 202 is revised to read as follows:

Authority: 17 U.S.C. 702.

5. A new § 202.12 is added to read as follows:

§ 202.12 Restored copyrights.

(a) *General.* This section prescribes rules pertaining to the registration of foreign copyright claims which have been restored to copyright protection under section 104A of 17 U.S.C., as amended by the Uruguay Round Agreements Act, Public Law 103–465.

(b) *Definitions.* (1) For the purposes of this section, restored work and source country, have the definition given in the URAA and § 201.33(b) of this chapter.

(2) *Descriptive statement for a work embodied solely in machine-readable format* is a separate written statement giving the title of the work, nature of the work (for example: computer program, database, videogame, etc.), plus a brief description of the contents or subject matter of the work.

(c) *Registration.* (1) *General.* Application, deposit, and filing fee for registering a copyright claim in a restored work under section 104A, as amended, may be submitted to the Copyright Office on or after January 1, 1996. The application, filing fee, and deposit should be sent in a single package to the following address: URAA/GATT, NIEs and Registration, P.O. Box 72400, Southwest Station, Washington, DC 20024, USA.

(2) *GATT Forms.* Application for registration for single works restored to copyright protection under URAA should be made on Form GATT. Application for registration for a group of works published under a single series title and published within the same calendar year should also be made on Form GATT. Application for a group of at least two and up to ten individual and related works as described in paragraph (c)(5)(ii) of this section should be made on Form GATT/GRP. GATT/URAA forms may be obtained by writing or calling the Copyright Office Hotline at (202) 707–9100. In addition, legible photocopies of these forms are acceptable if reproduced on good quality, 8½ by 11 inch white paper, and printed head to head so that page two is printed on the back of page one.

(3) *Fee.*

(i) *Amount.* The filing fee for registering a copyright claim in a restored work is 20 U.S. dollars. The filing fee for registering a group of multiple episodes under a series title under paragraph (c)(5)(i) of this section is also $20. The filing fee for registering a group of related works under paragraph (c)(5)(ii) of this section is 10 U.S. dollars per individual work.

(ii) *Method of payment.*

(A) *Checks, money orders, or bank drafts.* The Copyright Office will accept checks, money orders, or bank drafts made payable to the Register of Copyrights. Remittances must be redeemable without service or exchange fees through a United States institution, must be payable in United States dollars, and must be imprinted with American Banking Association routing numbers. In addition, international money orders, and postal money orders that are negotiable only at a post office are not acceptable. CURRENCY WILL NOT BE ACCEPTED.

(B) *Copyright Office Deposit Account.* The Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services. The system allows an individual or firm to establish a Deposit Account in the Copyright Office and to make advance deposits into that account. Deposit Account holders can charge copyright fees against the balance in their accounts instead of sending separate remittances with each request for service. For information on Deposit Accounts please write: Register of Copyrights, Copyright Office, Library of Congress, Washington, DC 20559, and request a copy of Circular 5, "How to Open and Maintain a Deposit Account in the Copyright Office."

(C) *Credit cards.* For URAA registrations the Copyright Office will accept VISA, MasterCard, and American Express. Debit cards cannot be accepted for payment. With the registration

application, an applicant using a credit card must submit a separate cover letter stating the name of the credit card, the credit card number, the expiration date of the credit card, the total amount authorized and a signature authorizing the Office to charge the fees to the account. To protect the security of the credit card number, the applicant must not write the credit card number on the registration application.

(4) *Deposit.*

(i) *General.* The deposit for a work registered as a restored work under the amended section 104A, except for those works listed in paragraphs (c)(4)(ii) through (iv) of this section, should consist of one copy or phonorecord which best represents the copyrightable content of the restored work. In descending order of preference, the deposit should be:

(A) The work as first published;

(B) A reprint or re-release of the work as first published;

(C) A photocopy or identical reproduction of the work as first published; or

(D) A revised version which includes a substantial amount of the copyrightable content of the restored work with an indication in writing of the percentage of the restored work appearing in the revision.

(ii) *Previously registered works.* No deposit is needed for works previously registered in the Copyright Office.

(iii) *Works embodied solely in machine-readable format.* For works embodied only in machine-readable formats, the deposit requirements are as follows:

(A) One machine-readable copy and a descriptive statement of the work; or

(B) Representative excerpts of the work, such as printouts; or, if the claim extends to audiovisual elements in the work, a videotape of what appears on the screen.

(iv) *Pictorial, graphic and sculptural works.* With the exception of 3-dimensional works of art, the general deposit preferences specified under paragraph (c)(4)(i) of this section shall govern. For 3-dimensional works of art, the preferred deposit is one or more photographs of the work, preferably in color.

(v) *Special relief.* An applicant who is unable to submit any of the preferred deposits may seek an alternative deposit under special relief (37 CFR 202.20(d)). In such a case, the applicant should indicate in writing why the deposit preferences cannot be met, and submit alternative identifying materials clearly showing some portion of the copyrightable contents of the restored work which is the subject of registration.

(vi) *Motion pictures.* If the deposit is a film print (16 or 35 mm), the applicant should contact the Performing Arts Section of the Examining Division for delivery instructions. The telephone number is: (202) 707–6040; the telefax number is: (202) 707–1236.

(5) *Group registration.* Copyright claims in more than one restored work may be registered as a group in the following circumstances:

(i) *Single series title.* Works published under a single series title in multiple episodes, installments, or issues during the same calendar year may be registered as a group, provided the owner of U.S. rights is the same for all episodes, installments, or issues. The Form GATT should be used and the number of episodes or installments should be indicated in the title line. The filing fee for registering a group of such works is $20. In general, the deposit requirements applicable to restored works will be applied to the episodes or installments in a similar fashion. In the case of a weekly or daily television series, applicants should first contact the Performing Arts Section of the Examining Division. The telephone number is (202) 707–6040; the telefax number is (202) 707–1236.

(ii) *Group of related works.* A group of related works may be registered on the Form GATT/GRP, provided the following conditions are met: the author(s) is the same for all works in the group; the owner of all United States rights is the same for all works in the group; all works must have been published in the same calendar year; all works fit within the same subject matter category, i.e., literary works, musical works, motion pictures, etc.; and there are at least two and not more than ten individual works in the group submitted. Applicants registering a group of related works must file for registration on the Form GATT/GRP. The filing fee for registering a group of related works is ten dollars per individual work.

(d) *Works excluded.* Works which are not copyrightable subject matter under title 17 of the U.S. Code, other than sound recordings fixed before February 15, 1972, shall not be registered as restored copyrights.

Dated: September 25, 1995.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–24244 Filed 9–28–95; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[OR-A–95–01a; FRL–5302–1]

Approval and Promulgation of Definition of Areas for Air Quality Planning Purposes; Oregon-Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct-Final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves the separation of the Portland, Oregon-Vancouver, Washington interstate carbon monoxide (CO) nonattainment area into two distinct nonattainment areas. The Oregon Department of Environmental Quality (ODEQ) has submitted sufficient technical documentation to adequately assure EPA that Vancouver and Portland are two separate CO airsheds. EPA believes any future problems will be hotspot in nature and therefore, EPA believes the CO national ambient air quality standards (NAAQS) will be protected in each state. This boundary correction will change the boundary description published in the November 6, 1991 **Federal Register** document.

DATES: This action will be effective on November 28, 1995 unless adverse or critical comments are received by October 30, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air & Radiation Branch (AT–082), EPA, Docket OR–A–95–01, 1200 Sixth Avenue, Seattle, Washington 98101. Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Christi Lee, Air and Radiation Branch (AT–082), EPA, Seattle, Washington 98101, (206) 553–1814.

SUPPLEMENTARY INFORMATION

I. Background

In the November 6, 1991 **Federal Register** notice, 56 FR 56847, the Portland-Vancouver area was designated as a nonattainment area for CO. The boundary for the Portland portion of the interstate nonattainment area is the Portland Metro Service District Boundary which includes Clackamas County (part), Multnomah County (part) and Washington County (part). The boundary for the Vancouver portion of the interstate nonattainment area is Clark County (part) Air Quality Maintenance Area (AQMA). The Portland-Vancouver interstate CO nonattainment area is classified as moderate less than or equal to 12.7 parts per million (ppm).

Prior to the boundary being set, the 1990 Clean Air Act required the Governor of each state to submit boundary descriptions for those areas which were to be designated nonattainment. The Governor of Oregon and the Governor of Washington each submitted a letter dated March 15, 1991, that listed and described the nonattainment area boundaries for their respective states. For CO, Oregon listed the Portland Metropolitan Area as nonattainment with the boundary being the Metropolitan Service District (METRO) which surrounds the urban growth boundaries of cities within the greater Portland Metropolitan Area [1]. The Washington letter listed Vancouver as nonattainment with the boundary being the Washington portion of the Portland-Vancouver Interstate AQMA.

In the November 6, 1991, notice EPA identified Portland-Vancouver as an interstate nonattainment area with the Portland portion of the nonattainment area boundary being METRO and the Vancouver portion of the nonattainment boundary being the AQMA (Vancouver portion).

The ODEQ contends that the November 6, 1991, **Federal Register** notice is in error. The ODEQ has written EPA that it never recommended nor acknowledged an interstate CO nonattainment area or a contiguous boundary with Vancouver, Washington.

EPA considered ODEQ's request, and finds that the designations were properly promulagated. However, EPA acknowledges ODEQ's position in that there are two distinct airsheds that should be separately regulated. EPA requested a technical justification be submitted by the state of Oregon to demonstrate that the Portland and Vancouver CO airsheds are distinct and that there is an acceptably minimal CO transport between the two cities.

On August 5, 1994, and January 3, 1995, the State of Oregon, through the ODEQ, submitted technical justification which supports the separation of the Portland-Vancouver CO interstate nonattainment area into two distinct nonattainment areas (Portland, Oregon and Vancouver, Washington).

Of significance in EPA's review is that both areas have been successful in attaining the CO standard. Portland has been in attainment of the CO standard since 1990, and Vancouver has been in attainment since 1991. Both cities are currently in the process of preparing CO maintenance plans for redesignation.

Technical Justification Conclusions

EPA requested ODEQ submit documentation which demonstrates that the Portland and Vancouver airsheds are distinct, and that the CO NAAQS which have been attained will be maintained despite any differences in the prospective maintenance plans. EPA also requested ODEQ discuss the potential CO impacts of the interstate commute.

To address EPAs technical concerns, ODEQ completed a monitoring data analysis which compared Portland and Vancouver CO data, taking into consideration meteorological impacts (wind direction and wind speed) for pollutant transport. The results of this analysis demonstrated that elevated CO concentrations in either city were not influenced by meteorological transport of the pollutant between the two airsheds.

To further support this conclusion, ODEQ also conducted a statistical analysis which compared Portland and Vancouver CO monitored data to investigate whether a correlation existed between measured concentrations at the Portland and Vancouver monitoring sites. The analysis demonstrated no correlation in measured CO concentrations between the two cities.

In addition, special studies were performed in both Portland (September 1991, the 1994 report is in development) and Vancouver (May 1994) that demonstrated that CO impacts in each area are limited to intersections with steep gradients of decreasing CO concentration away from the intersections.

To address EPA's interstate commuting concerns, ODEQ conducted a CO impact analysis of the interstate commute traffic focusing on high volume intersections. Since vehicles registered in both nonattainment areas are subjected to essentially identical control strategies (oxygenated fuel, basic I/M), the impact of either the Portland or Vancouver vehicles on the contiguous CO nonattainment areas concentrations is insignificant.

The ODEQ has written EPA of its commitment to providing long-term maintenance of the CO national ambient air quality standard not only in it's own jurisdiction but in other contiguous areas. Any future change in the CO control strategies for either Portland or Vancouver will be addressed in their future CO redesignation/maintenance plans which have to be evaluated and approved by EPA.

The technical justification submitted to EPA contains an adequate demonstration that Vancouver's and Portland's airsheds are distinct, relative to CO, and that Oregon and Washington are firmly committed to air quality maintenance in both Portland and Vancouver despite potential differences in the prospective maintenance plans.

II. This Action

With this action EPA is approving the technical correction to the CO nonattainment boundary description for Portland-Vancouver under section 110(k)(6). EPA believes that any future problems will be hotspot in nature and therefore EPA believes that the CO NAAQS will be protected in each state. This action will separate the Portland-Vancouver Interstate CO nonattainment area into two separate nonattainment areas; Portland, Oregon and Vancouver, Washington.

In separating the Portland-Vancouver nonattainment area, the METRO boundary will be recognized as the CO nonattainment boundary for Portland, and the Vancouver portion of the AQMA will remain Vancouver's CO nonattainment boundary. Both areas will remain classified as moderate nonattainment (less than or equal to 12.7 ppm) for CO. Vancouver's design value will remain at 10.0 ppm and Portland's design value has been determined to be 9.8 ppm.

The separated Portland, Oregon and Vancouver, Washington CO nonattainment designations are listed under "Designated Area" in the table at the end of this rulemaking action. The additional language is highlighted for easy reference.

III. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603

[1] The Portland portion of the Air Quality Maintenance Area had been designated as a CO nonattainment area prior to the 1990 Clean Air Act Amendments, 43 FR 8962, (March 3, 1978), listed as Portland-Vancouver (Oregon Portion).

and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 28, 1995 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 28, 1995.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 28, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: September 22, 1995.

Carol M. Browner,

U.S. EPA Administrator.

Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.338 is amended by removing the entry for "Portland-Vancouver Area" and adding the entry for "Portland Area" in "Oregon-Carbon Monoxide" table to read as follows:

§ 81.338 Oregon.

* * * * *

OREGON—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
* * * * * * *				
Portland Area:				
Portland Metro Service District Boundary				
Clackamas County (part)		Nonattainment		Moderate≤12.7ppm.
Multnomah County (part)		Nonattainment		Moderate≤12.7ppm.
Washington County (part)		Nonattainment		Moderate≤12.7ppm.
* * * * * * *				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

3. Section 81.348 is amended by removing the entry for "Portland-Vancouver Area" and adding an entry for "Vancouver Area" in the "Washington-Carbon Monoxide" table to read as follows:

§ 81.348 Washington.

* * * * *

WASHINGTON—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
* * * * * * *				
Vancouver Area				

WASHINGTON—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Clark County (part) Air Quality Maintenance Area.		Nonattainment		Moderate ≤12.7ppm.
*	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.

* * * * * *

[FR Doc. 95–24041 Filed 9–28–95; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Parts 264 and 265

[IL–64–2–5807; FRL–5306–9]

Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; stay.

SUMMARY: The EPA is issuing a stay subject to conditions for air standards applicable to hazardous waste treatment, storage, and disposal facilities (TSDF). This stay is applicable to tanks and containers used for the management of certain hazardous wastes generated by organic peroxide manufacturing processes. Certain organic peroxide manufacturing wastes are inherently unstable and can not safely be confined in closed units or systems. Therefore, the EPA is staying the applicability of the subpart CC technical requirements for units managing these specific organic peroxide compounds.

EFFECTIVE DATE: December 6, 1995.

ADDRESSES: Docket. Docket entries cited in this notice may be found in RCRA docket number F–94–CE2A–FFFFF. Other RCRA docket numbers that pertain to the final rule are F–91–CESP–FFFFF, F–92–CESA–FFFFF, and F–94–CESF–FFFFF. The docket is available for inspection at the EPA RCRA Docket Office (5305), Room 2616, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For further information about this stay contact the RCRA Hotline at (703) 412–9877 or toll-free at 1–800–424–9346.

SUPPLEMENTARY INFORMATION:

I. Background

On December 6, 1994, the EPA published in the **Federal Register** (59 FR 62896) under authority of the Resource Conservation and Recovery Act (RCRA), as amended, standards requiring the use of air emission controls on certain tanks, surface impoundments, and containers at hazardous waste treatment, storage, and disposal facilities (TSDF). These standards are codified in 40 CFR parts 264 and 265 under subpart CC (referred to as the "subpart CC standards").

A major manufacturer of organic peroxide products has expressed its concern to the EPA regarding the availability of air emission controls which could safely be used on tanks and containers that manage certain types of organic peroxides. Certain organic peroxides are temperature sensitive compounds that are subject to spontaneous, rapid decomposition under certain conditions. The company maintains that use of the air emission controls required under the subpart CC standards on certain tanks and containers at their organic peroxides manufacturing facilities would have the potential to significantly increase the risk of explosion and fire. An inherent risk is created because these units manage a variety of organic peroxide wastes, including intermittent batches or streams containing organic peroxides that potentially undergo spontaneous, rapid thermal decomposition and hydrolysis at or below ambient temperatures.

A variety of organic peroxide products are manufactured in the United States for use by the plastics and allied industries. Typically, these organic peroxide compounds serve as initiators (catalysts) and resin hardeners in the manufacture of widely used polymer plastics (e.g., polystyrene, polyvinyl chloride, polyethylene, acrylic resins). At some organic peroxide manufacturing facilities, the production processes may generate hazardous wastes containing organic peroxides that are placed in waste management units subject to the subpart CC standards.

The manufacture, transport, and use of organic peroxide products may require implementing special safety precautions to avoid the spontaneous, rapid decomposition of certain organic peroxides. The rate at which these organic peroxides decompose is a function of temperature. Individual organic peroxide compounds and mixtures of these compounds have different sensitivities to temperature. Some organic peroxide compounds are relatively stable (i.e., do not decompose) at ambient temperatures (e.g., 30 °C). In general, it is not necessary to handle these types of organic peroxides any differently than other organic compounds during normal process operations. Other organic peroxide compounds can undergo spontaneous, rapid thermal decomposition and hydrolysis at temperatures at, or below, ambient temperatures. Once initiated, the self-accelerating thermal decomposition and hydrolysis reactions very rapidly generate large quantities of gaseous organic compounds and oxygen. Confinement of this gaseous mixture in an enclosed vessel (such as a covered tank or ventilation ducts) creates conditions that could result in explosion, detonation, and/or fire. Consequently, handling these types of organic peroxide compounds requires use of precautionary measures to address the possibility of uncontrolled organic peroxide decomposition.

The organic peroxide manufacturer who has raised this issue with the EPA produces a variety of organic peroxide products which are potentially unstable at or below ambient temperatures. The organic peroxide characteristics of the hazardous waste placed in tanks and containers at the company's facilities are highly variable because of the number of different types of organic peroxide products manufactured, the types of manufacturing processes used, and the nature of the operations used to safely handle organic peroxides at this company's facilities. Consequently, at any given time, the organic peroxide composition and concentration in the hazardous waste placed in these tanks and containers could potentially attain proportions initiating the spontaneous organic peroxide decomposition reactions. Unless provisions are made

for the very rapid evacuation of the decomposition gases, an explosion or fire could result in the waste management unit.

Prior to publication of the final subpart CC standards, the EPA received a letter from the company requesting the EPA to identify control technologies that could be safely used to control organic emissions from tanks managing hazardous waste waters that contains organic peroxides (RCRA docket entry F–94–CE2A–0001). The Agency was in the process of revising the draft final subpart CC standards to include a provision for safety venting of tanks and containers. Based on an initial review of the information provided, the Agency considered these safety vent provisions to be adequate to address the concerns raised by the company.

In November 1994, the EPA received a second letter restating the company's safety concerns with respect to implementing the subpart CC standards on tanks and containers at their organic peroxide manufacturing facilities (RCRA docket entry F–94–CE2A–0002). In response to this letter, the EPA met with company representatives on January 11, 1995 (RCRA docket entry F–94–CE2A–S0001). During this meeting, the company representatives stated that certain tanks and containers at its organic peroxide manufacturing facilities may require air emission controls under the subpart CC standards. Several different control equipment approaches for these tanks and containers have been considered by the company for complying with the subpart CC standards. For all cases, the company has concluded that use of the control equipment on the tanks and containers in accordance with the requirements specified in the subpart CC standards would have the potential to significantly increase the risk of explosion and fire at the company's facilities.

II. Issuance of Stay

The EPA expects that TSDF owners and operators will follow the proper safety procedures appropriate for their particular situations when designing and operating all air emission controls required by the subpart CC standards. In response to comments received at proposal, the EPA added several provisions to the final rule that specifically address special situations when venting of covers and other air emission control equipment is necessary for safety reasons. For example under 40 CFR 264.1084(g) and 40 CFR 265.1085(g), owners and operators are allowed to use pressure relief valves or other types of safety devices on a tank cover required under the subpart CC standards to address those special situations in which emergency venting of the covered tank is necessary, consistent with good engineering and safety practices, to prevent physical damage or permanent deformation of the tank or cover.

Following the January 11, 1995 meeting with the company, the EPA reviewed the air emission control equipment safety device provisions included in the final subpart CC standards with respect to the special nature of managing hazardous waste that contains organic peroxides with the potential to undergo spontaneous, self-accelerating decomposition reactions at or below ambient temperatures. The EPA recognizes that special precautions must be followed when handling hazardous wastes containing these types of organic peroxides. Tanks and containers used for management of this type of hazardous waste exist at one company's facilities and may exist at other TSDF locations of which the EPA is not yet aware. Some of these tanks and containers potentially could be subject to the subpart CC standards and require the use of air emission controls. The EPA recognizes that certain site-specific circumstances may exist where the provisions in the subpart CC standards allowing the use of safety devices on the air emission controls (as provided by, e.g., 40 CFR 264.1084(g)) may not be adequate to provide a level of safety consistent with good engineering and safety practices for handling organic peroxides, based on the composition of the organic peroxide wastes and the management operations for those wastes. Therefore, the EPA considers it appropriate to issue an administrative stay of the subpart CC standards' applicability, subject to conditions, for those special situations where hazardous waste that contains organic peroxides with the potential to undergo spontaneous, self-accelerating decomposition reactions at or below ambient temperatures are managed at a TSDF in tanks or containers, and for which the facility owner or operator determines that the use of any appropriate air emission controls, as required by the subpart CC standards, on these tanks and containers would create an undue safety hazard.

Based on the information provided to the EPA, the special circumstances requiring the need to issue this stay for these tanks and containers do not occur for TSDF surface impoundments. In particular, the only impoundment receiving these wastes is scheduled to be replaced by tanks before December 8, 1997, the compliance date by which facilities must install controls on units that were initially in compliance with the subpart CC standards through an implementation plan.

By today's issuance of the stay, the requirements of the subpart CC standards, with the exception of certain recordkeeping requirements, do not apply to TSDF tanks and containers used for management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the facility owner or operator meets all of the conditions of the stay. This means that, for these specific tanks and containers at a TSDF site, the facility owner and operator is neither required to install and operate the air emission controls specified in the subpart CC standards on the waste management units, nor required to perform waste determinations for the hazardous waste placed in the units provided that the owner or operator satisfies all three conditions of the stay.

The first condition of the stay is that the tank or container must be used to manage hazardous waste from organic peroxide manufacturing processes that produce more than one functional family of organic peroxides, and these organic peroxides are the predominant products manufactured by the process. Further, these organic peroxides can potentially undergo self-accelerating thermal decomposition at or below ambient temperatures and these organic peroxides are the predominate products manufactured by the process. For the purpose of meeting this condition of this stay, "organic peroxide" means an organic compound that contains the bivalent -O-O- structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

The second condition of the stay is that the TSDF owner or operator must prepare documentation that explains why installation and operation of air emission controls on the tank or container, as required by the subpart CC standards, would create an undue safety hazard. The specific information that the EPA considers to be necessary to satisfy this condition is listed in § 264.1089(i) and § 265.1090(i) added to the subpart CC standards by today's action (the requirements in § 264.1089(i) applicable to permitted TSDF and in § 265.1090(i) applicable to interim-status TSDF are identical). The stay requires no administrative action by the EPA to take effect at a facility for which the owner or operator claims to satisfy the conditions of the stay. However, EPA officials (or officials from an

authorized State) could question the completeness and adequacy of the information prepared by the TSDF owner or operator to support the stay claim with respect to the requirements of § 264.1089(i) or § 265.1090(i), as applicable to the facility.

The third condition for the stay is that the TSDF owner or operator claiming the benefit of the stay submit a one-time notification of that fact to the appropriate EPA Region or authorized State office. This notice is to state that the TSDF manages hazardous wastes otherwise subject to the subpart CC standards in tanks and containers, but is not subject to those rules by virtue of this administrative stay. The notice must include the name and address of the facility, and must be signed and dated by an authorized representative of the facility owner or operator. This notification is necessary to alert EPA and State officials of the existence of the facility and, thus, provides a means of verifying if the stay conditions have been satisfied. As explained above, the stay is self-implementing; therefore, no administrative action by the EPA is necessary for the stay to apply to a particular TSDF. Thus, the notification does not present facts warranting grant of a stay; rather, it notifies the EPA and State authorities that the stay is being claimed by a TSDF owner or operator.

III. Administrative Requirements

A. Docket

Docket entries cited in this notice may be found in RCRA docket number F–94–CE2A-FFFFF. Other RCRA docket numbers that pertain to the final rule are F–91–CESP-FFFFF, F–92–CESA-FFFFF, and F–94–CESF-FFFFF. The docket is available for inspection at the EPA RCRA Docket Office (5305), Room 2616, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

IV. Legal Authority

The EPA is issuing this administrative stay pursuant to 5 U.S.C. 705, authorizing administrative agencies to stay administrative action pending judicial review when "justice so requires." See also Rule 18 of the Federal Rules of Appellate Procedure authorizing issuance of administrative stays pending review. (A petition for review has been filed regarding applicability of the subpart CC standards to persons managing hazardous waste containing organic peroxides in tanks and containers.) The EPA believes that issuance of a stay for this type of hazardous waste is needed because the promulgated regulation could (in the limited circumstances discussed in this notice) make it more dangerous to manage the waste. The stay is needed to prevent such an adverse result. The EPA also believes that the minimal conditions attached to the stay—documentation of the reason why the stay applies plus a one-time notification—are necessary to limit the stay only to the situations warranting relief.

To the extent good cause (pursuant to 5 U.S.C. 553 (b)) is needed to justify the Agency's immediately effective conditioned stay, the EPA believes that it is provided by the need to avoid the risks of explosion that could occur without the stay. In addition, the EPA notes that the general issue of providing a type of safety-override in the rule was addressed during the comment period and in the final rule, so that today's action arises from the notice and comment already provided during the rulemaking.

V. State Authority

As discussed in the final subpart CC standards (59 FR 62921, December 6, 1994), rules promulgated under RCRA section 3004(n) implement a provision of the 1984 Hazardous and Solid Waste Amendments (HSWA) and consequently take effect immediately in authorized States. The EPA will implement these standards in an authorized State until such a time when the State either: (1) modifies its RCRA program to adopt the rules and receives final authorization from the EPA for the modification: or (2) receives interim authorization from the EPA. *Id.* The EPA views today's conditioned stay as part of the rule, so that a State seeking authorization for the subpart CC standards should include this provision.

List of Subjects 40 CFR Parts 264 and 265

Air pollution control, Container, Control Device, Hazardous waste, Incorporation by reference, Inspection, Miscellaneous unit, Monitoring, Reporting and recordkeeping requirements, Standards, Surface impoundment, Tank, Waste determination.

Dated: September 14, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, parts 264 and 265 of the Code of Federal Regulations are amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924 and 6925.

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

2. In § 264.1080, paragraph (d) is added to read as follows:

§ 264.1080 Applicability.

* * * * * * *

(d) The requirements of this subpart, except for the recordkeeping requirements specified in § 264.1089(i) of this subpart, are administratively stayed for a tank or a container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the owner or operator of the unit meets all of the following conditions:

(1) The owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purpose of meeting the conditions of this paragraph, "organic peroxide" means an organic compound that contains the bivalent —O—O— structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

(2) The owner or operator prepares documentation, in accordance with the requirements of § 264.1089(i) of this subpart, explaining why an undue safety hazard would be created if air emission controls specified in §§ 264.1084 through 264.1087 of this subpart are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of paragraph (d)(1) of this section.

(3) The owner or operator notifies the Regional Administrator in writing that hazardous waste generated by an

organic peroxide manufacturing process or processes meeting the conditions of paragraph (d)(1) of this section are managed at the facility in tanks or containers meeting the conditions of paragraph (d)(2) of this section. The notification shall state the name and address of the facility, and be signed and dated by an authorized representative of the facility owner or operator.

3. In § 264.1089, paragraph (i) is added to read as follows:

§ 264.1089 Recordkeeping requirements.

* * * * *

(i) For each tank or container not using air emission controls specified in §§ 264.1084 through 264.1087 of this subpart in accordance with the conditions specified in § 264.1080(d) of this subpart, the owner or operator shall record and maintain the following information:

(1) A list of the individual organic peroxide compounds manufactured at the facility that meet the conditions specified in § 264.1080(d)(1).

(2) A description of how the hazardous waste containing the organic peroxide compounds identified in paragraph (i)(1) of this section are managed at the facility in tanks and containers. This description shall include:

(i) For the tanks used at the facility to manage this hazardous waste, sufficient information shall be provided to describe for each tank: a facility identification number for the tank; the purpose and placement of this tank in the management train of this hazardous waste; and the procedures used to ultimately dispose of the hazardous waste managed in the tanks.

(ii) For containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to describe: a facility identification number for the container or group of containers; the purpose and placement of this container, or group of containers, in the management train of this hazardous waste; and the procedures used to ultimately dispose of the hazardous waste handled in the containers.

(3) An explanation of why managing the hazardous waste containing the organic peroxide compounds identified in paragraph (i)(1) of this section in the tanks and containers as described in paragraph (i)(2) of this section would create an undue safety hazard if the air emission controls, as required under §§ 264.1084 through 264.1087 of this subpart, are installed and operated on these waste management units. This explanation shall include the following information:

(i) For tanks used at the facility to manage these hazardous wastes, sufficient information shall be provided to explain: how use of the required air emission controls on the tanks would affect the tank design features and facility operating procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the tanks; and why installation of safety devices on the required air emission controls, as allowed under § 264.1084(g) of this subpart, will not address those situations in which evacuation of tanks equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.

(ii) For containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to explain: how use of the required air emission controls on the containers would affect the container design features and handling procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the containers; and why installation of safety devices on the required air emission controls, as allowed under § 264.1086(d) of this subpart, will not address those situations in which evacuation of containers equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

4. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935.

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

5. In § 265.1080, paragraph (d) is added to read as follows:

§ 265.1080 Applicability.

* * * * *

(d) The requirements of this subpart, except for the recordkeeping requirements specified in § 265.1090(i) of this subpart, are administratively stayed for a tank or a container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the owner or operator of the unit meets all of the following conditions:

(1) The owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purpose of meeting the conditions of this paragraph, "organic peroxide" means an organic compound that contains the bivalent -O-O- structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

(2) The owner or operator prepares documentation, in accordance with the requirements of § 265.1090(i) of this subpart, explaining why an undue safety hazard would be created if air emission controls specified in §§ 265.1085 through 265.1088 of this subpart are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of paragraph (d)(1) of this section.

(3) The owner or operator notifies the Regional Administrator in writing that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of paragraph (d)(1) of this section are managed at the facility in tanks or containers meeting the conditions of paragraph (d)(2) of this section. The notification shall state the name and address of the facility, and be signed and dated by an authorized representative of the facility owner or operator.

6. In § 265.1090, paragraph (i) is added to read as follows:

§ 265.1090 Recordkeeping requirements.

* * * * *

(i) For each tank or container not using air emission controls specified in §§ 265.1085 through 265.1088 of this subpart in accordance with the conditions specified in § 265.1080(d) of this subpart, the owner or operator shall record and maintain the following information:

(1) A list of the individual organic peroxide compounds manufactured at

the facility that meet the conditions specified in § 265.1080(d)(1).

(2) A description of how the hazardous waste containing the organic peroxide compounds identified in paragraph (i)(1) of this section are managed at the facility in tanks and containers. This description shall include the following information:

(i) For the tanks used at the facility to manage this hazardous waste, sufficient information shall be provided to describe for each tank: a facility identification number for the tank; the purpose and placement of this tank in the management train of this hazardous waste; and the procedures used to ultimately dispose of the hazardous waste managed in the tanks.

(ii) For containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to describe: a facility identification number for the container or group of containers; the purpose and placement of this container, or group of containers, in the management train of this hazardous waste; and the procedures used to ultimately dispose of the hazardous waste handled in the containers.

(3) An explanation of why managing the hazardous waste containing the organic peroxide compounds identified in paragraph (i)(1) of this section in the tanks and containers as described in paragraph (i)(2) of this section would create an undue safety hazard if the air emission controls, as required under §§ 265.1085 through 265.1088 of this subpart, are installed and operated on these waste management units. This explanation shall include the following information:

(i) For tanks used at the facility to manage these hazardous wastes, sufficient information shall be provided to explain: how use of the required air emission controls on the tanks would affect the tank design features and facility operating procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the tanks; and why installation of safety devices on the required air emission controls, as allowed under § 265.1085(g) of this subpart, will not address those situations in which evacuation of tanks equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.

(ii) For containers used at the facility to manage these hazardous wastes, sufficient information shall be provided to explain: how use of the required air emission controls on the containers would affect the container design features and handling procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the containers; and why installation of safety devices on the required air emission controls, as allowed under § 265.1087(d) of this subpart, will not address those situations in which evacuation of containers equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.

[FR Doc. 95–24268 Filed 9–28–95; 8:45 am]
BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5306–3]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Witco Chemical Corporation Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region II announces the deletion of the Witco Chemical Corporation Superfund site in Oakland, New Jersey from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR Part 300, the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of New Jersey have determined that all appropriate Fund-financed responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of New Jersey have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. John Osolin, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, New York 10007, (212) 637–4412.

ADDRESSES: Comprehensive information on this site is available at the following addresses:

Oakland Public Library, Municipal Plaza, Oakland, New Jersey 07436, (201) 337–3742, Hrs. M–TH 10:00 AM–9:00 PM, F & SA 10:00 AM–5:00 PM.

Superfund Records Center, U.S. Environmental Protection Agency, Region II, 290 Broadway, 18th Floor, New York, New York 10007, (212) 637–4308, Hrs. M–F 9:00 AM–5:00 PM, (Call for an appointment, reasonable fees may be charged for copying.).

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Witco Chemical Corporation Site, Oakland, New Jersey.

A Notice of Intent to Delete for this site was published November 18, 1993 (58 FR 60825). The closing date for comments on the Notice of Intent to Delete was December 17, 1993. EPA received no comments and therefore has not prepared a Responsiveness Summary.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 15, 1995.

William J. Muszynski,

Acting Regional Administrator.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing Witco

Chemical Corporation Site, Oakland, New Jersey.

[FR Doc. 95–24269 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5307–2]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Action Anodizing, Plating and Polishing Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces the deletion of the Action Anodizing, Plating and Polishing site from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New York have determined that all appropriate Hazardous Substance Response Trust Fund- (Fund-) financed responses under CERCLA have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State of New York have determined that remedial actions conducted at the site to date have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: October 30, 1995.

ADDRESSES: For further information contact: Janet Cappelli, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th Floor, New York, NY 10007–1866, (212) 637–4270.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is the Action Anodizing, Plating and Polishing site, Copiague, Suffolk County, New York. A Notice of Intent to Delete for this site was published in the **Federal Register** [59 FR 64644] on June 6, 1995. The closing date for comments on the Notice of Intent to Delete was July 6, 1994. EPA received no verbal or written comments on the proposed deletion.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Fund-financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.66(c)(8) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede EPA efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 7, 1995.

William J. Muszynski,

Acting Regional Administrator.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321 (c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. In appendix B, Table 1 is amended by removing the site for Action Anodizing, Plating and Polishing, Copiague, New York.

[FR Doc. 95–24267 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 763

[OPPTS–62142A; FRL–4979–9]

Asbestos-Containing Materials in Schools; State Request for Waiver From Requirements; Final Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final decision on requested waiver.

SUMMARY: EPA is issuing a final decision which approves the request of Colorado for a waiver from the requirements of 40 CFR part 763, subpart E, Asbestos-Containing Materials in Schools.

DATES: This final decision is effective October 30, 1995.

ADDRESSES: A copy of the complete waiver application submitted by the State is available from the TSCA Nonconfidenital Information Center, TSCA Docket Receipt (7404), Office of Pollution Prevention and Toxics, Rm. NE–B607, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. A copy is also on file and may be reviewed at the EPA Region 8 office in Denver, Colorado: EPA, Region 8 (8ART–RTI), 999 18th St., Denver, CO, 80202–2466.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E-543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551, e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This action is issued under the authority of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2641, *et seq.* TSCA Title II was enacted as part of the Asbestos Hazard Emergency Response Act (AHERA), Pub. L. 99519. AHERA is the abbreviation commonly used to refer to the statutory authority for EPA's rules affecting asbestos in schools and will be used in this document. EPA issued a final rule in the **Federal Register** of October 30, 1987 (52 FR 41846), the "Asbestos-Containing Materials in Schools Rule" (the Schools Rule, 40 CFR part 763, subpart E), which requires all Local Education Agencies (LEAs) to identify asbestos-containing building materials (ACBMs) in their school buildings and to take appropriate actions to control the release of asbestos fibers.

Under section 203 of AHERA, EPA may, upon request by a State Governor and after notice and comment and opportunity for a public hearing in the State, waive in whole or part the requirements of the Schools Rule, if the State has established and is implementing or intends to implement an ongoing program of asbestos inspection and management which is at least as stringent as the requirements of the rule. 40 CFR 763.98 sets forth the procedures to implement this statutory provision. The Schools Rule requires that specific information be included in the waiver request submitted to EPA, establishes a process for reviewing waiver requests, and sets forth procedures for oversight and rescission of waivers granted to States. The Agency encourages States to establish and manage their own school regulatory programs under the AHERA waiver program.

EPA issued a notice in the **Federal Register** of November 29, 1994 (59 FR 60945), which announced the receipt of a waiver request from the State of Colorado, and solicited comments from the public. The notice also discussed

the program elements of the State program.

EPA received one comment during the 60–day comment period. The commenter agreed with the Agency's position. No request for a public hearing was received.

EPA is required to issue a notice in the **Federal Register** announcing its decision to grant or deny a request for waiver within 30 days after the close of the comment period. The comment period for this docket closed on January 30, 1995. The 30–day review period may be extended if mutually agreed upon by EPA and the State. EPA and Colorado mutually agreed to extend the review period.

The remainder of this document is divided into two units. The first unit discusses the Colorado program and sets forth the reasons and rationale for EPA's decision on the State's waiver request. Unit I. is subdivided into two sections. Section A discusses key elements of the State's program. Section B gives EPA's final approval of the waiver. The second unit of this document discusses statutory requirements of the Paperwork Reduction Act.

I. The Colorado Program

A. Program Elements

The Colorado Regulation 8 (Part B, Emission Standards for Asbestos) give the Colorado Department of Public Health and Environment (CDPHE) the authority to regulate asbestos in schools and commercial buildings. The State's regulations adopt by reference the AHERA regulations at 40 CFR part 763, subpart E effective when an AHERA waiver is approved by EPA. The State has the enforcement mechanism to allow it to implement the program. The State has EPA-approved Neutral Administrative Inspection Scheme (NAIS), logging system for tracking tips, complaints, etc., and an enforcement response policy in place. The State has qualified personnel to carry out the provision relating to the waiver. The program will be administered by the CDPHE.

Since the State application for a waiver was received, EPA published a revision to its Asbestos Model Accreditation Plan (MAP). The Asbestos Model Accreditation Plan; Interim Final Rule was published on February 3, 1994 (59 FR 5236). This MAP required that each State adopt an accreditation plan that is at least as stringent as this MAP within 180 days after the commencement of the first regular session of the legislature of the State that is convened on or after April 4, 1994. The CDPHE has not submitted copies of the State's revised regulations. Therefore, the State's regulations are not final at this time.

B. EPA's Decision on Colorado's Request for Waiver

EPA grants the State of Colorado a partial waiver from the requirements of 40 CFR part 763, subpart E, effective 30 days after publication of this Final Decision. This waiver includes all AHERA requirements except the MAP. EPA will amend the AHERA waiver to include the MAP when the State's MAP regulations become final. Federal jurisdiction shall be in effect in the period between the date of publication of this document and the effective date. This will assure that the State has sufficient time to prepare to assume its new responsibilities. It will also assure the public that no gap in authority occurs, and gives the public sufficient notice of the transfer of duties from EPA to the State of Colorado. This waiver is applicable to all schools and public and commercial buildings covered by AHERA in the State and is subject to rescission under 40 CFR 763.98(j) based on periodic EPA oversight evaluation and conference with the State in accordance with 40 CFR 763.98(h) and 763.98(i).

II. Other Statutory Requirements

The reporting and recordkeeping provisions relating to State waivers from the requirements of the Asbestos-Containing Materials in Schools Rule (40 CFR part 763) have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and have been assigned OMB control number 2070–0091.

List of Subjects in 40 CFR Part 763

Environmental protection, Asbestos, Asbestos in schools (AHERA), Hazardous substances, Reporting and recordkeeping requirements, State and local governments, Worker protection.

Dated: September 20, 1995.

William Yellowtail,

Regional Administrator, Region 8.

[FR Doc. 95–24117 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Parts 766 and 799

[OPPTS0940028; FRL0949560093]

Technical Amendments to Test Rules and Consent Orders

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has approved by letter certain modifications to test standards and schedules for chemical testing programs under section 4 of the Toxic Substances Control Act (TSCA). These modifications, requested by test sponsors, will be incorporated and codified in the respective test regulation or consent order. Because these modifications do not significantly alter the scope of a test or significantly change the schedule for its completion, EPA approved these requests without seeking notice and comment. EPA annually publishes a notice describing all of the modifications granted by letter for the previous year.

EFFECTIVE DATE: This rule is effective on September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E09543B, 401 M St., SW., Washington, DC 20460, (202) 554091404, TDD (202) 554090551, Internet: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a rule published in the **Federal Register** of September 1, 1989 (54 FR 36311), amending procedures for modifying test standards and schedules for test rules and testing consent orders under section 4 of TSCA. The amended procedures allow EPA to approve requested modifications which do not alter the scope of a test or significantly change the schedule for its completion. These modifications are approved by letter without public comment. The rule also requires immediate placement of these letters in EPA's public files and publication of these modifications in the **Federal Register**. This document includes modifications approved from January 1, 1994, through December 31, 1994. For a detailed description of the rationale for these modifications, refer to the submitters' letters and EPA's responses in the public record for this rulemaking.

I. Discussion of Modifications

Each chemical discussed in this rule is identified by a specific CAS number and docket number. Copies of correspondence relating to specific chemical modifications may be found in docket number (OPPTS0940028) established for this rule. The following table lists all chemical-specific modifications approved from January 1, 1994, through December 31, 1994.

MODIFICATIONS TO TEST STANDARDS AND CONSENT ORDERS JANUARY 1, 1994 THROUGH DECEMBER 31, 1994

Chemical/CAS Number	Chemical FR Cite	Test	Modifications	Docket No.
Final Rule Chemicals				
Dioxins.				
Pentabromodiphenyloxide	766.35	Analytical testing	5	40028/83002M
Octabromodiphenyloxide	766.35	Analytical testing	5	40028/83002M
Tetrabromobisphenol-A	766.35	Analytical testing	5	40028/83002M
Decabromodiphenyloxide	766.35	Analytical testing	5	40028/83002M
2,3,5,6-tetrachloro-2,5-cyclohexadiene-1,4-dione.	766.35	Analytical testing	5	40028/83002M
1,2-bis(tribromophenoxy)ethane	766.35	Analytical testing	5	40028/83002M
Isopropanol	799.2325	Vapor inhalation oncogenicity study in rats	5	40028/42097B
Office of Drinking Water.				
Chloroethane	799.5075	Subacute and subchronic testing	5	40028/42111F
1,1-dichloroethane	799.5075	Subacute and subchronic testing	5	40028/42111F
1,1,2,2-tetrachloroethane	799.5075	Subacute and subchronic testing	2, 5	40028/42111F
1,3,5-trimethylbenzene	799.5075	Subacute and subchronic testing	5	40028/42111F
Consent Order Chemicals				
Refactory ceramic fibers	799.5000	Submission of raw data by June 29, 1994; submission of report with data analysis by July 18, 1994; bi-annual meeting rescheduled for August 12, 1994..	3	40028/42166B
Sodium cyanide	799.5000	Plant uptake and translocation study	5	40028/42118

Modifications

1. Modify sampling schedule.
2. Change to test substance (form/purity).
3. Change in non-critical test procedure or condition.
4. Add satellite group for further testing.
5. Extend test or protocol deadline, delete test initiation date.
6. Clarify and/or add specific guideline requirement.
7. Alternate specific guideline requirement approved for certain test(s).
8. CAS No. correction.
9. Test standard amendment.

Note: In §1A766.35(b)(4)(i) changes have been made to four existing chemicals and one new submitter is added to the table; however, for the convenience of the user, the entire table is being revised.

II. Public Record

EPA has established a public record for this rulemaking (Docket number OPPTS0940028). The record includes the information considered by EPA in evaluating the requested modifications.

The record is available for inspection from 12:00 noon to 4 p.m., Monday through Friday, except legal holidays, in Rm. NEB09607, 401 M St., SW., Washington, DC 20460.

III. Regulatory Assessment Requirements

A. Analyses Under E.O. 12866, and the Unfunded Mandates Act of 1995

Because the modifications to the subject testing actions do not impose any additional requirements, this action is not "significant" within the meaning of Executive Order 12866 (58 FR 51735, October 4, 1993), and does not impose any Federal mandate on any State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), it has been determined that this action will not have a significant economic impact on a significant number of small entities.

C. Paperwork Reduction Act

The information collection requirements associated with this rule have been approved by OMB under the provisions of the Paperwork Reduction Act, 44 U.S.C 3501, and have been assigned OMB control number 2070-0033. EPA has determined that this rule does not change existing recordkeeping or reporting requirements nor does it impose any additional recordkeeping or reporting requirements.

List of Subjects

40 CFR Part 766

Dibenzo-para-dioxins/dibenzofurans, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Recordkeeping and reporting requirements, Testing.

Dated: September 25, 1995.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR parts 766 and 799 are amended as follows:

1. In part 766:

PART 766—[AMENDED]

a. The authority citation for part 766 continues to read as follows:

Authority: 15 U.S.C. 2603 and 2607.

b. In §1A766.35, by revising paragraph (a)(2)(i)(B)(*3*), the table to paragraph (a)(2)(ii)(A), and the table to paragraph (b)(4)(i) and paragraph (f) to read as follows:

§1A766.35 Dibenzo-para-dioxins/dibenzofurans.

(a) * * *

(2) * * *

(i) * * *

(B) * * *

(*3*) The deadline for submitting protocols for pentabromodiphenyloxide (CAS No. 325340981099) is February 6, 1995. The deadline for submitting tetrabromobisphenol-A-bisethoxylate (CAS No. 41260945092) is January 31, 1991.

* * * * *

(2) * * *

(ii) * * *

(A) * * *

CAS No.	Submitter	Chemical	Due date
1180975092	Rhone-Poulenc	2,3,5,6-tetrachloro-2,5-cyclohexaniene-1,4-dione	March 4, 1994

* * * * *

(b) ***

(4) ***

(i) ***

CAS No.	Submitter	Chemical	Due Date	Effective Date
790994097	Great Lakes	Tetrabromobisphenol-A	May 26, 1992	May 28, 1993
790994097	Ethyl	Tetrabromobisphenol-A	August 10, 1992	May 28, 1993
790994097	Ameribrom	Tetrabromobisphenol-A	April 15, 1994	September 29, 1995
870910095	Pfister	3,4',5-tribromosalicylanilide	45 days after protocol approval	May 28, 1993
1180979096	Great Lakes	2,4,6-Tribromophenol	May 26, 1992	May 28, 1993
11630919095	Ameribrom	Decabromodiphenyloxide	April 15, 1994	September 29, 1995
11630919095	Ethyl	Decabromodiphenyloxide	May 26, 1992	May 28, 1993
11630919095	Great Lakes	Decabromodiphenyloxide	May 26, 1992	May 28, 1993
41620945092	Great Lakes	Tetrabromobisphenol-A-bisethoxylate	June 2, 1993	September 8, 1994
253270989093	Great Lakes	Allyl Ether of Tetrabromobisphenol-A	August 10, 1992	May 28, 1993
325340981099	Great Lakes	Pentabromodiphenyloxide	March 22, 1993	September 8, 1994
325340981099	Akzo Chemicals Inc.	Pentabromodiphenyloxide	February 6, 1995	September 29, 1995
325340981099	Ameribrom	Pentabromodiphenyloxide	March 22, 1993	September 8, 1994
325360952090	Ameribrom	Octabromodiphenyloxide	January 8, 1993	September 29, 1995
325360952090	Ethyl	Octabromodiphenyloxide	May 15, 1994	May 28, 1993
325360952090	Great Lakes	Octabromodiphenyloxide	May 26, 1992	May 28, 1993
378530959091	Great Lakes	1,2-bis(tribromophenoxy)ethane	January 24, 1995	September 29, 1995

* * * * *

(f) *Effective date.* (1) The effective date of this final rule is July 6, 1987, except for paragraphs (a)(2)(i)(B) introductory text, (a)(2)(i)(B)(*1*), (a)(2)(i)(B)(*2*), (a)(2)(i)(B)(*3*), (a)(2)(i)(B)(*4*), the table in paragraph (a)(2)(ii)(A), and the table in paragraph (b)(4)(i) of this section.

(2) The effective date for paragraph (a)(2)(i)(B) introductory text, (a)(2)(i)(B)(*1*), (a)(2)(i)(B)(*2*), and (a)(2)(i)(B)(*4*), is May 21, 1991. The effective date of paragraphs (a)(2)(i)(B)(*3*), and the table in paragraph (a)(2)(ii)(A) is September 29, 1995. The effective date of paragraph (b)(4)(i) introductory text is May 28, 1993, and the effective date of the entries in the table in paragraph (b)(4)(i) is shown in the effective dates column of the table.

(3) The guidelines and other test methods cited in this rule are referenced as they exist on the effective date of the final rule.

2. In part 799:

PART 799—[AMENDED]

a. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. In §1A799.2325 by revising paragraphs (c)(8)(ii)(A) and (d) to read as follows:

§1A799.2325 Isopropanol

* * * * *

(c) ***

(8) ***

(ii) *** (A) The oncogenicity test shall be completed and the final report submitted to EPA by July 5, 1994.

* * * * *

(d) *Effective date.* (1) The effective date of this final rule is December 4, 1989, except for the provisions of paragraphs (c)(5)(i)(C)(*1*), (c)(5)(ii)(A)(*3*), (c)(6)(i)(D), and (c)(8)(ii)(A), of this section. The effective date for paragraphs (c)(5)(i)(C)(*1*), and (c)(5)(ii)(A)(*3*) of this section is May 21, 1990. The effective date for paragraphs (c)(6)(i)(D) of this section is May 21, 1991. The20effective date of paragraph (c)(8)(ii)(A) is September 29, 1995.

(2) The guidelines and other test methods cited in this rule are references as they exist on the effective date of the final rule.

c. In §1A799.5075 by revising paragraphs (a)(2), (c)(1)(ii)(A), (c)(1)(ii)(B), (c)(2)(ii)(A) and paragraph (d) to read as follows:

§1A799.5075 Drinking water contaminants subject to testing.

(a) ***

(2) A test substance of at least 99 percent purity shall be used for Chloroethane, 1,1-dichloroethane, and 1,3,5-trimethylbenzene. A test substance of at least 98 percent purity shall be used for 1,1,2,2-tetrachloroethane.

* * * * *

(c) ***

(1) ***

(ii) *** (A) The subacute testing for chloroethane shall be completed and the final report submitted to EPA by March 27, 1995. The subacute testing for 1,1-dichloroethane and 1,1,2,2-tetrachloroethane shall be completed and the final report submitted to EPA by April 27, 1995. The subacute testing for 1,3,5-trimethylbenzene shall be completed and the final report submitted to EPA by February 11, 1995.

(B) Except for 1,3,5-trimethylbenzene, a progress report shall be submitted to EPA for each test beginning 6 months after the date specified in paragraph (d)(1) of this section and at 609month intervals thereafter until the final report is submitted to EPA . The progress report for 1,3,5-trimethylbenzene shall be submitted to EPA by April 10, 1995.

(2) ***

(ii) * * * (A) The subchronic testing for chloroethane shall be completed and the final report submitted to EPA by June 27, 1995. The subchronic testing for 1,1-dichloroethane and 1,1,2,2-tetrachlorethane shall be completed and the final report submitted to EPA by August 27, 1995. The subchronic testing for 1,3,5-trimethylbenzene shall be completed and the final report submitted to EPA by April 10, 1995.

* * * * *

(d) *Effective date.* (1) This section is effective on December 27, 1993 except for paragraphs (a)(2), (c)(1)(ii)(A), (c)(1)(ii)(B), and (c)(2)(ii)(A). The effective date for paragraphs (a)(2), (c)(1)(ii)(A), (c)(1)(ii)(B), (c)(2)(ii)(A) is September 29, 1995.

(2) The guidelines and other test methods cited in this section are referenced as they exist on the effective date of the final rule.

[FR Doc. 95–24211 Filed 9–28–95; 8:45 am]
BILLING CODE 6560–50–F

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40 CFR Part 300

[FRL–5308–2]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") which is appendix B of 40 CFR part 300, constitutes this list.

This rule adds 8 new sites to the NPL, 6 to the General Superfund Section and 2 to the Federal Facilities Section. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be October 30, 1995.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see "Information Available to the Public" in Section I of the "Supplementary Information" portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (mail code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Contents of This Final Rule
III. Executive Order 12866
IV. Unfunded Mandates
V. Governors' Concurrence

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99–499, stat. 1613 *et seq.* To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action * * * and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases. 42 USC 9601(23). "Remedial" actions are those "consistent with permanent remedy, taken instead of or in addition to removal actions * * *." 42 USC 9601(24).

Pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA has promulgated a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is Appendix B of 40 CFR Part 300, is the National Priorities List ("NPL").

CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). However, under 40 CFR 300.425(b)(2) placing a site on the NPL "does not imply that monies will be expended." EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

The purpose of the NPL is merely to identify releases that are priorities for further evaluation. Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance release has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases.

Further, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), quoted above and at 48 FR 40659 (September 8, 1983). If a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

Three mechanisms for placing sites on the NPL for possible remedial action are included in the NCP at 40 CFR 300.425(c). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of 40 CFR part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil

exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on May 26, 1995 (60 FR 27896).

The NPL includes two sections, one of sites that are evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites being addressed generally by other Federal agencies (the "Federal Facilities Section"). Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes facilities at which EPA is not the lead agency.

Facility (Site) Boundaries

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (as the mere identification of releases), for it to do so.

CERCLA section 105(a)(8)(B) directs EPA to list national priorities among the known "releases or threatened releases." Thus, the purpose of the NPL is merely to identify releases that are priorities for further evaluation. Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance release has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data upon which the NPL placement was based will, to some extent, describe which release is at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis (including noncontiguous releases evaluated under the NPL aggregation policy, described at 48 FR 40663 (September 8, 1983)).

When a site is listed, it is necessary to define the release (or releases) encompassed within the listing. The approach generally used is to delineate a geographical area (usually the area within the installation or plant boundaries) and define the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the "boundaries" of the site. Rather, the site consists of all contaminated areas within the area used to define the site, and any other location to which contamination from that area has come to be located.

While geographic terms are often used to designate the site (e.g., the "Jones Co. plant site") in terms of the property owned by the particular party, the site properly understood is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the "site"). The "site" is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the facility or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the "Jones Co. plant site," does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the "nature and extent of the threat presented by a release" will be determined by a Remedial Investigation/Feasibility Study (RI/FS) as more information is developed on site contamination (40 CFR 300.430(d)). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination "has come to be located" before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

For these reasons, the NPL need not be amended if further research into the extent of the contamination expands the apparent boundaries of the release. Further, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), quoted above and at 48 FR 40659 (September 8, 1983). If a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

Deletions/Cleanups

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). To date, the Agency has deleted 84 sites from the General Superfund Section of the NPL.

EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Sites qualify for the CCL when:

(1) any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved;

(2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or

(3) the site qualifies for deletion from the NPL.

Inclusion of a site on the CCL has no legal significance.

In addition to the 83 sites that have been deleted from the NPL because they have been cleaned up (the Waste Research and Reclamation site was deleted based on deferral to another program and is not considered cleaned up), an additional 221 sites are also in the NPL CCL. Thus, as of September 1995, the CCL consists of 304 sites.

Cleanups at sites on the NPL do not reflect the total picture of Superfund accomplishments. As of August, 1995, EPA had commenced 679 removal actions at NPL sites, and 2,108 removal actions at non-NPL sites. Information on removals is available from the Superfund hotline.

Action In This Notice

This final rule adds 8 sites to the NPL, 6 to the General Superfund Section and 2 to the Federal Facilities Section. Seven of these sites are added to the NPL based on an HRS score of 28.5 or greater and one is added based on the ATSDR Health Advisory Criteria. This notice also drops one site from proposal to the NPL. This action results in an NPL of 1,238 sites, 1,083 in the General Superfund Section and 155 in the Federal Facilities Section. With the action of a proposed rule published in the **Federal Register** issue of October 2, 1995, an additional 52 sites are proposed and are awaiting final agency action, 47 in the General Superfund Section and 5 in the Federal Facilities Section. Final and proposed sites now total 1,290.

Based on comments received on the Plymouth Avenue Landfill site in Deland, Florida, EPA recalculated the HRS score and found that it had dropped below 28.5. Consequently, EPA is not taking final action and is withdrawing the Plymouth Avenue Landfill site from proposal to the NPL at this time.

Information Available to the Public

401 M Street, SW, Washington, DC 20460, 703/603–8917 (Please note this is the mailing address only. If you wish to visit the HQ Docket to view documents, see viewing address above.)

II. Contents of This Notice

This notice promulgates final rules to add 8 sites to the NPL, 6 to the General Superfund Section (Table 1) and 2 to the Federal Facilities Section (Table 2). The following tables present the sites in this rule arranged alphabetically by State and identifies their rank by group number. Group numbers are determined by arranging the NPL by rank and dividing it into groups of 50 sites. For example, a site in Group 4 has a score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

NATIONAL PRIORITIES LIST FINAL RULE—GENERAL SUPERFUND SECTION

State	Site name	City/County	Group
KS	Ace Services	Colby	5/6
ME	West Site/Hows Corner	Plymouth	5/6
NJ	Horseshoe Road	Sayreville	4
TN	Tennessee Products	Chattanooga	NA
TX	RSR Corporation	Dallas	5/6
VI	Tutu Wellfield	Tutu	5/6

Number of Sites Listed: 6.

NATIONAL PRIORITIES LIST FINAL RULE—FEDERAL FACILITIES SECTION

State	Site name	City/County	Group
MD	Indian Head Naval Surface Warfare Center	Indian Head	5/5
PA	Willow Grove Naval Air and Air Reserve Station	Willow Grove	5/6

Number of Sites Listed: 2.

Public Comments

EPA reviewed all comments received on sites included in this notice. Based on comments received on the proposed sites, as well as investigation by EPA and the States (generally in response to comment), EPA recalculated the HRS scores for individual sites where appropriate. EPA's response to site-specific public comments and explanations of any score changes made as a result of such comments are addressed in the "Support Document for the Revised National Priorities List Final Rule—September 1995."

III. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

IV. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves.

The Headquarters and Regional public dockets for the NPL contain documents relating to the evaluation and scoring of the site in this final rule. The dockets are available for viewing, by appointment only, after the appearance of this notice. The hours of operation for the Headquarters docket are from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Please contact the Regional Docket for hours.

Addresses and phone numbers for the Headquarters and Regional dockets follow.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA, 703/603–8917, (Please note this is viewing address only. Do not mail documents to this address.)

Jim Kyed, Region 1, U.S. EPA Waste Management Records Center, HRC–CAN–7, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–9656

Ben Conetta, Region 2, U.S. EPA, 290 Broadway, New York, NY 10007–1866, 212/637–4435

Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597–7004

Kathy Piselli, Region 4, U.S. EPA, 345 Courtland Street, NE, Atlanta, GA 30365, 404/347–4216

Cathy Freeman, Region 5, U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604, 312/886–6214

Bart Canellas, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H–MA, Dallas, TX 75202–2733, 214/655–6740

Carole Long, Region 7, U.S. EPA, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7224

Greg Oberley, Region 8, U.S. EPA, 999 18th Street, Suite 500, Denver, CO 80202–2466, 303/294–7598

Rachel Loftin, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744–2347

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW–114, Seattle, WA 98101 206/553–2103

For the sites added to the NPL based on an HRS score of 28.5 or greater, the Headquarters docket for this rule contains HRS score sheets for the final sites; Documentation Records for the sites describing the information used to compute the scores; pertinent information regarding statutory requirements or EPA listing policies that affect the sites; and a list of documents referenced in each of the Documentation Records. For the site being listed based on ATSDR Health Advisory criteria, the Headquarters docket contains the health advisory issued by ATSDR and other supporting documentation. For all of the final sites, the Headquarters docket contains comments received; and the Agency's responses to those comments. The Agency's responses are contained in the "Support Document for the Revised National Priorities List Final Rule—September 1995."

A general discussion of the statutory requirements affecting NPL listing, the purpose and implementation of the NPL, the economic impacts of NPL listing, and the analysis required under the Regulatory Flexibility Act is included as part of the Headquarters rulemaking docket in the "Additional Information" document.

The Regional docket contains all the information in the Headquarters docket, plus the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS score, when the HRS is used, for the sites. These reference documents are available only in the Regional dockets.

Interested parties may view documents, by appointment only, in the Headquarters of Regional Dockets, or copies may be requested from the Headquarters or Regional Dockets. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents. If you wish to obtain documents by mail from EPA Headquarters Docket, the mailing address is as follows: Docket Coordinator, Headquarters U.S. EPA CERCLA Docket Office (Mail Code 5201G) the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (within the meaning of Title II of the UMRA) for State, local, or tribal governments or the private sector. Nor does it contain any regulatory requirements that might significantly or uniquely affect small governments. This is because today's listing decision does not impose any enforceable duties upon any of these governmental entities or the private sector. Inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result form site-by-site decisions about what actions to take, not directly from the act of listing itself. Therefore, today's rulemaking is not subject to the requirements of sections 202, 203 or 205 of the Unfunded Mandates Act.

V. Governor's Concurrence

On July 27, 1995, Congress enacted Public Law (P.L.) 104–19, which made emergency supplemental appropriations and rescissions for the fiscal year ending September 30, 1995. Section 1006 of P.L. 104–19 provides that EPA may not use funds made available for fiscal year 1995 for listing or to list any additional facilities on the National Priorities List * * * unless the Administrator receives a written request to propose for listing or to list a facility from the Governor of the State in which the facility is located * * *.

EPA has received letters from the appropriate governors requesting that the Agency list on the NPL all the facilities in this final rule. These letters are available in the docket for this rulemaking.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Environmental Protection, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: September 25, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B [Amended]

2. Table 1 to appendix B to part 300 is amended by revising the table heading and by adding the following sites by State and in alphabetical order:

TABLE 1.—GENERAL SUPERFUND SECTION, SEPTEMBER 1995

State site name	City/County	Notes(a)
* * * * *	*	*
KS Ace Services	Colby	
* * * * *	*	*
ME West Site/Hows Corners	Plymouth	
* * * * *	*	*
NJ Horseshoe Road	Sayreville	
* * * * *	*	*
TN Tennessee Products	Chattanooga	A.
* * * * *	*	*
TX RSR Corp.	Dallas	
* * * * *	*	*
VI Tutu Wellfield	Tutu	
* * * * *	*	*

3. Table 2 to appendix B to part 300 is amended by revising the table heading by adding the following sites by State and in alphabetical order:

TABLE 2.—FEDERAL FACILITIES SECTION, SEPTEMBER 1995

State site name	City/County	Notes(a)
* * * * *	*	*
MD Indian Head Naval Surface Warfare Center	Indian Head	
* * * * *	*	*
PA Willow Grove Naval Air & Air Res. Stn	Willow Grove	

(a) A=Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be > 28.50).

BILLING CODE 6560-50-M
[FR Doc. 95–24415 Filed 9–28–95; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Chapter IV

[BPD–830–FC]

Medicare Program; Authority Citations: Technical Amendments

ACTION: Final rule with comment period.

SUMMARY: This technical regulation provides uniform simplified authority citations for most of the parts that pertain to the Medicare program, and revises the sections or paragraphs that explain the statutory basis for the substance of the rules.

These changes are consistent with the use of authority citations and paragraphs identified as "statutory basis" in the regulations that pertain to the Medicaid program.

They are intended to put an end to the continual changing of the current lengthy authority citations and, by clarifying and, where needed, expanding the "statutory basis" portions, ensure better understanding of that basis.

DATES: *Effective date:* These rules are effective as of September 29, 1995.

Comment date: We will consider comments received by: November 28, 1995.

ADDRESSES: Please mail written comments (an original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–830–FC, P.O. Box 7195, Baltimore, MD 21207.

If you prefer, you may deliver your written comments (original and 3 copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201–0001, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–830–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of the document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, Monday through Friday of each week from 8:30 a.m. to 5 p.m., phone: (202) 690–7890.

FOR FURTHER INFORMATION CONTACT: Luisa V. Iglesias (202) 690–6383.

SUPPLEMENTARY INFORMATION:

Background

In 1978 we revised, reorganized, and redesignated the Medicaid regulations. At that time we simplified the authority citations to limit them to those statutory

provisions that explicitly authorize issuance of regulations, and to add to each part of the rules a section or paragraph to explain the statutory provisions that are implemented by the part.

Recently, we have begun to use the same kind of authority citations and explanations in the Medicare regulations.

Provisions of the Regulations

By establishing the simplified authority citation for most of the parts of the HCFA rules that pertain to Medicare, we—

- Make it unnecessary to keep revising individual citations as different parts are amended by newly issued regulations;
- Achieve consistency with the Medicaid regulations; and
- Provide guidance to readers with respect to the statutory basis of the rules.

For parts that have subparts dealing with very different subject matter, it is sometimes preferable to have "statutory basis" sections or paragraphs in each subpart. These clarifying additions do not affect the substance of the rules.

In part 414, we have made a nomenclature change for consistent use of the term "physician services".

Collection of Information Requirements

This rule contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Response to Comments

Although this is a final rule, we will consider timely comments from anyone who believes that, in making these technical changes we have unintentionally altered the substance of the rule. If we revise this rule as a result of comments, we will discuss all timely comments in the preamble to the revised rule.

Waiver of Proposed Rulemaking and Delayed Effective Date

The changes made by this rule are technical and editorial in nature and do not alter the substance of the regulations. Their aim is to simplify the authority citations to limit them to statutory sections that explicitly authorize or require issuance of regulations. Accordingly, we find that there is good cause to waive proposed rulemaking procedures as unnecessary.

In addition, it is important, for the convenience of the public, that these technical changes be effective as of October 1, 1995 so that they will be included in the 1995 edition of the Code of Federal Regulations on which the public relies. Accordingly, we find that there is also good cause to waive the usual 30-day delay in the effective date.

Regulatory Flexibility Statement

Consistent with the Regulatory Flexibility Act (RFA) and section 1102(b) of the Social Security Act, we prepare a regulatory flexibility analysis for each rule, unless we can certify that the particular rule will not have a significant economic impact on a substantial number of small entities, or a significant impact on the operation of a substantial number of small rural hospitals.

The RFA defines "small entity" as a small business, a nonprofit enterprise, or a government jurisdiction (such as a county, city, or township) with a population of less than 50,000. We also consider all providers and suppliers of services to be small entities. For purposes of section 1102 of the Act, we define a small rural hospital as a hospital that has fewer than 50 beds and is not located in a Metropolitan Statistical Area.

We have not prepared a regulatory flexibility analysis because we have determined and we certify that these rules will not have a significant economic impact on a substantial number of small entities or a significant impact on the operation of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this rule was not reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 401

Claims, Freedom of information, Health facilities, Medicare, Privacy.

42 CFR Part 403

Health insurance, Hospitals, Intergovernmental relations, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 406

Health facilities, Kidney diseases, Medicare.

42 CFR Part 407

Medicare.

42 CFR Part 408

Medicare.

42 CFR Part 409

Health facilities, Medicare.

42 CFR Part 411

Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 414

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 416

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 418

Health facilities, Hospice care, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 420

Fraud, Health facilities, Health professions, Medicare.

42 CFR Part 421

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare.

42 CFR Part 462

Grant programs-health, Health care, Health professions, Peer Review Organizations (PRO)

42 CFR Part 466

Grant programs-health, Health care, Health facilities, Health professions, Peer Review Organizations (PRO), Reporting and recordkeeping requirements.

42 CFR Part 473

Administrative practice and procedure, Health care, Health professions, Peer Review Organizations (PRO), Reporting and recordkeeping requirements.

42 CFR Part 476

Health care, Health professional, Health record, Peer Review Organizations (PRO), Penalties, Privacy,

Reporting and recordkeeping requirements.

42 CFR Part 482

Grant programs-health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 483

Grant programs-health , Health facilities, Health professions, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

42 CFR Part 484

Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 488

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 489

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 498

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Chapter IV is amended as set forth below.

A. In the following parts, the authority citation is revised to read as set forth below:

Parts 406, 407, 408, 411, 412, 416, 418, 462, 466, 476, 489, and 498.

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

PART 401—GENERAL ADMINISTRATIVE REQUIREMENTS

B. In part 401, the following changes are made:

1. The authority citation for part 401, which was published at 59 FR 56232 (November 10, 1994) is removed and the following authority citation is added at the end of the table of contents:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1895hh). Subpart F is also issued under the authority of the Federal Claims Collection Act (31 U.S.C. 3711).

2. The authority citations at the beginning of subparts B and F are removed.

PART 403—SPECIAL PROGRAMS AND PROJECTS

C. Part 403 is amended as set forth below.

1. The following authority citation is added at the end of the table of contents:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. The authority citations at the beginning of subparts B, C and E are removed.

PART 409—HOSPITAL INSURANCE BENEFITS

D. Part 409 is amended as set forth below.

1. The authority citation for part 409 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (U.S.C.1302 and 1895hh).

2. Section 409.1 is revised to read as follows:

§ 409.1 Statutory basis.

This part is based on the identified provisions of the following sections of the Social Security Act:

(a) Sections 1812 and 1813 establish the scope of benefits of the hospital insurance program under Medicare Part A and set forth deductible and coinsurance requirements.

(b) Sections 1814 and 1815 establish conditions for, and limitations on, payment for services furnished by providers.

(c) Section 1820 establishes the rural primary care hospital program.

(d) Section 1861 describes the services covered under Medicare Part A, and benefit periods.

(e) Section 1862(a) specifies exclusions from coverage; and section 1862(h) requires a registry of pacemakers.

(f) Section 1881 sets forth the rules for individuals who have end-stage renal disease (ESRD), for organ donors, and for dialysis, transplantation, and other services furnished to ESRD patients.

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

E. Part 413 is amended as set forth below.

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1861(v)(1)(A), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v)(1)(A), and 1395hh).

2. Section 413.1(a) is amended to revise paragraphs (a)(1) and (a)(3) to read as follows:

§ 413.1 Introduction.

(a) *Basis, scope, and applicability*—(1) *Statutory basis*—(i) *Basic provisions.* (A) Section 1815 of the Act requires that the Secretary make interim payments to providers and periodically determine the amount that should be paid under Part A of Medicare to each provider for the services it furnishes.

(B) Section 1814(b) of the Act (for Part A) and section 1833(a) (for Part B) provide for payment on the basis of the lesser of a provider's reasonable costs or customary charges.

(C) Section 1861(v) of the Act defines "reasonable cost".

(ii) *Additional provisions.* (A) Section 1138(b) of the Act specifies the conditions for Medicare payment for organ procurement costs.

(B) Section 1814(j) of the Act provides for exceptions to the "lower of costs or charges" provisions.

(C) Section 1833 (a)(4) and (i)(3) of the Act provide for payment of a blended amount for certain surgical services furnished in a hospital's outpatient department.

(D) Section 1833(n) of the Act provides for payment of a blended amount for outpatient hospital diagnostic procedures such as radiology.

(E) Section 1834(c)(1)(C) of the Act establishes the method for determining Medicare payment for screening mammograms performed by hospitals.

(F) Section 1834(g) of the Act provides for payment for rural primary care hospital (RPCH) outpatient services on the basis of prospectively determined amounts.

(G) Section 1881 of the Act authorizes payment for services furnished to ESRD patients.

(H) Section 1883 of the Act provides for payment for post-hospital SNF care furnished by a rural hospital that has swing-bed approval.

(I) Sections 1886 (a) and (b) of the Act impose a ceiling on the rate of increase in hospital inpatient costs.

(J) Section 1886(h) of the Act provides for payment to a hospital for the services of interns and residents in approved teaching programs on the basis of a "per resident" amount.

* * * * *

(3) *Applicability.* The payment principles and related policies set forth in this part are binding on HCFA and its fiscal intermediaries, on the Provider Reimbursement Review Board, and on the entities listed in paragraph (a)(2) of this section.

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

(F) Part 414 is amended as set forth below.

1. The authority citation for part 414 is revised to read as follows:

Authority: Secs. 1102, 1871, and 1881(b)(l) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(l)).

2. Nomenclature change. In part 414, in the following locations, the words "physicians' services" are revised to read "physician services": §§ 414.1, 414.2 (in the definition of the term, the introductory text and paragraph (2)), 414.22, 414.24 (heading and paragraph (c)(2)), 414.30, 414.32 (heading and paragraph (b)), 414.40 (paragraph (b) introductory text), 414.44 (paragraphs (a)(1), (b) introductory text, (d), (e), and (f)), and 414.58 (heading and paragraph (a)).

3. The authority citation at the beginning of subpart A is removed.

4. Section 414.1 is revised to read as follows:

§ 414.1 Basis and scope.

This part implements the indicated provisions of the following sections of the Act:

1833—Rules for payment for most Part B services.
1834(a) and (h)—Amounts and frequency of payments for durable medical equipment and for prosthetic devices and orthotics and prosthetics.
1848—Fee schedule for physician services.
1881(b)—Rules for payment for services to ESRD beneficiaries.
1887—Payment of charges for physician services to patients in providers.

PART 420—PROGRAM INTEGRITY: MEDICARE

G. Part 420 is amended as set forth below.

The authority citation for part 420 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 420.200 [Amended]

2. In the first sentence of § 420.200, "1833(e)," and the words ", and 1866" are removed, and "1861" is revised to read "and 1861(v)(1)(i)".

PART 421—INTERMEDIARIES AND CARRIERS

H. Part 421 is amended as set forth below.

1. The authority citation for part 421 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. § 421.1 is amended to redesignate paragraph (b) as paragraph (c), revise paragraph (a) and add a new paragraph (b) to read as follows:

§ 421.1 Basis and scope.

(a) This part is based on the indicated provisions of the following sections of the Act:

1124—Requirements for disclosure of certain information.
1816 and 1842—Use of organizations and agencies in making Medicare payments to providers and suppliers of services.

(b) Section 421.118 is also based on 42 U.S.C.1395b–1(a)(1)(F), which authorizes demonstration projects involving intermediary agreements and carrier contracts

* * * * *

PART 424—CONDITIONS FOR MEDICARE PAYMENT

I. Part 424 is amended as set forth below.

1. The authority citation for part 424 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. § 424.1 is amended to revise paragraph (a) to read as follows:

§ 424.1 Basis and scope.

(a) *Statutory basis.* (1) This part is based on the indicated provisions of the following sections of the Act:

1814—Basic conditions for, and limitations on, Medicare payments for Part A services.
1815—Payment to providers for Part A services.
1835—Procedures for payment to providers for Part B services.
1842(b)(3)(B)(ii)—Assignment of Part B Medicare claims.
1842(b)(6)—Payment to entities other than the supplier.
1848—Payment for physician services.
1870(e) and (f)—Settlement of claims after death of the beneficiary.

(2) Section 424.444(c) is also based on section 216(j) of the Act.

PART 473—RECONSIDERATIONS AND APPEALS

J. Part 473 is amended as set forth below.

1. The authority citation for part 473 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 473.12 [Amended]

2. In § 473.12, the following changes are made:

a. Paragraph (b) is redesignated as paragraph (c).

b. Paragraph (a) is redesignated as paragraph (b) and revised, and a new paragraph (a) is added, to read as set forth below.

c. In redesignated paragraph (c), "will review" is revised to read "reviews".

§ 473.12 Statutory basis.

(a) Under section 1154 of the Act, a PRO may make an initial determination that services furnished or proposed to be furnished are not reasonable, necessary, or delivered in the most appropriate setting.

(b) Under section 1155 of the Act, the following rules apply:

(1) A Medicare beneficiary, a provider, or an attending practitioner who is dissatisfied with an initial denial determination under paragraph (a) of this section is entitled to a reconsideration by the PRO that made that determination.

(2) The beneficiary is also entitled to the following:

(i) A hearing by an administrative law judge if $200 or more is still in controversy after a reconsidered determination.

(ii) Judicial review if $2000 or more is still in controversy after a final determination by the Department.

* * * * *

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

K. Part 482 is amended as set forth below.

1. The authority citation for part 482 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 482.1 [Amended]

2. In § 482.1, the following changes are made:

a. The heading of paragraph (a) is revised to read "*Statutory basis.*".

b. Paragraph (a)(3) is redesignated as paragraph (a)(5).

c. New paragraphs (a)(3) and (a)(4) are added to read as set forth below.

d. In paragraph (b), "subpart S of part 405" is revised to read "subpart A of part 488".

§ 482.1 Basis and scope.

(a) *Statutory basis.* * * *

(3) Sections 1861(k) and 1902(a)(30) of the Act provide that hospitals participating in Medicare and Medicaid must have a utilization review plan that meets specified requirements.

(4) Section 1883 of the Act sets forth the requirements for hospitals that provide long term care under an agreement with the Secretary.

* * * * *

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

L. Part 483 is amended as set forth below.

1. The statutory citation for part 483 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 483.1 [Amended]

2. In § 483.1, the following changes are made:

a. The heading of paragraph (a) is revised to read "*Statutory basis.*".

b. Paragraph (a)(2) is redesignated as paragraph (a)(3) and a new paragraph (a)(2) is added to read as follows:

§ 483.1 Basis and scope.

(a) *Statutory basis.* * * *

(2) Section 1861(l) of the Act requires the facility to have in effect a transfer agreement with a hospital.

§ 483.150 [Amended]

3. In § 483.150, the following changes are made:

a. The section heading is revised to read as set forth below.

b. Paragraphs (a) and (b) are redesignated as paragraphs (b) and (c) with the headings added as set forth below.

c. A new paragraph (a) is added to read as set forth below.

§ 483.150 Statutory basis; Deemed meeting or waiver of requirements.

(a) *Statutory basis.* This subpart is based on sections 1819(b)(5) and 1919(b)(5) of the Act, which establish standards for training nurse-aides and for evaluating their competency.

(b) *Deemed meeting of requirements.* * * *

(c) *Waiver of requirements.* * * *

4. Section 483.200 is revised to read as follows:

§ 483.200 Statutory basis.

This subpart is based on sections 1819(e)(3) and (f)(3) and 1919(e)(3) and (f)(3) of the Act, which require States to make available, to individuals who are discharged or transferred from SNFs or NFs, an appeals process that complies with guidelines issued by the Secretary.

PART 484—CONDITIONS OF PARTICIPATION: HOME HEALTH AGENCIES

M. Part 484 is amended as set forth below.

1. Section 484.1 is revised to read as follows:

§ 484.1 Basis and scope.

(a) *Basis and scope.* This part is based on the indicated provisions of the following sections of the Act:

(1) Sections 1861(o) and 1891 establish the conditions that an HHA must meet in order to participate in Medicare.

(2) Section 1861(z) specifies the Institutional planning standards that HHAs must meet.

(b) This part also sets forth additional requirements that are considered necessary to ensure the health and safety of patients.

PART 488—SURVEY AND CERTIFICATION PROCEDURES

N. Part 488 is amended as set forth below.

1. The authority citation for part 488 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1895hh).

2. A new § 488.2 is added to read as follows:

§ 488.2 Statutory basis.

This part is based on the indicated provisions of the following sections of the Act:

1128—Exclusion of entities from participation in Medicare.
1128A—Civil money penalties.
1814—Conditions for, and limitations on, payment for Part A services.
1819—Requirements for SNFs.
1861(f)—Requirements for psychiatric hospitals.
1861(z)—Institutional planning standards that hospitals and SNFs must meet.
1861(ee)—Discharge planning guidelines for hospitals.
1864—Use of State survey agencies.
1865—Effect of accreditation.
1880—Requirements for hospitals and SNFs of the Indian Health Service.
1883—Requirements for hospitals that provide SNF care.
1902—Requirements for participation in the Medicaid program.
1913—Medicaid requirements for hospitals that provide NF care.
1919—Medicaid requirements for NFs.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance; Program No. 93.773, Medicare Hospital Insurance; Program No. 93.774, Medicare Supplementary Medical Insurance)

Dated: September 15, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–24382 Filed 9–28–95; 8:45 am]

BILLING CODE 4120–01–P

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42 CFR Part 400

[OFH–018–F]

Medicare and Medicaid Programs; Approved Information Collection Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Technical final rule.

SUMMARY: This technical final rule updates our display of approved control numbers for the collection of information that have been assigned to us by the Office of Management and Budget (OMB). OMB regulations require each agency to include the approval numbers in the agency's rules.

EFFECTIVE DATE: This regulation is effective September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Zaneta Davis, 410–786–2094.

SUPPLEMENTARY INFORMATION:

I. Background

The Paperwork Reduction Act of 1980 (PRA 1980), Public Law 90–620, Title 44 U.S.C. Chapter 35, requires Federal agencies to minimize burden and costs associated with information collection. The Director of the Office of Management and Budget (OMB) promulgated regulations to implement the provisions of PRA 1980 at 5 CFR Part 1320. The OMB regulations include a requirement that Federal agencies obtain OMB approval of collection of information requirements that are contained in any regulations published by the agencies in the **Federal Register**. After approval of the information collection by OMB, Federal agencies are further required to publish the control number assigned by OMB as part of the agency's regulations. To comply with the OMB requirement and as a means of notifying the public that our information collection requirements have been approved, we have established a general regulation under 42 CFR 400.310 to display the valid OMB control numbers and the applicable regulation sections. We routinely update § 400.310 to add sections that have been approved by OMB, delete sections that are no longer in effect, or redesignate approved sections.

II. Provisions of the Rule

We are revising § 400.310, which sets forth our display of valid OMB control numbers for 42 CFR.

Additions

We have identified below the sections we are adding to § 400.310 because they have been approved by OMB.

Sections in 42 CFR that contain collections of information	Current OMB control No.
405.509	0938—0666
405.517	0938—0666
412.42	0938—0445
412.92	0938—0477
412.105	0938—0456
416.43	0938—0506
417.801	0938—0610
418.30, 418.82, 418.96, 418.100	0938—0475
431.630	0938—0445
431.806, 431.830, 431.832, 431.834, 431.836	0938—0438
433.110, 433.112–433.114, 433.116, 433.117, 433.119–433.121, 433.123, 433.127, 433.130, 433.131, 433.135	0938—0247
433.138	0938—0502 and 0938—0553 and 0938—0555
441.302	0938—0449
441.303	0938—0449
447.253	0938—0366
456.654	0938—0445
456.700, 456.705, 456.709, 456.711, 456.712	0938—0659
466.70, 466.72, 466.74	0938—0445
466.78	0938—0445 and 0938—0665
466.80, 466.94	0938—0445
485.56, 485.58, 485.60, 485.64, 485.66	0938—0267 and 0938—0538
485.709, 485.711, 485.717, 485.719, 485.721, 485.723, 485.725, 485.727, 485.729	0938—0336
486.104, 486.106, 486.110	0938—0338
486.155, 486.161, 486.163	0938—0336
488.10	0938—0646
488.18	0938—0667
488.26	0938—0646
489.20	0938—0667
489.24	0938—0334 0938—0683 and 0938—0667
489.102	0938—0610
498.22, 498.40, 498.58, 498.82	0938—0508
1004.40, 1004.50, 1004.60, 1004.70	0938—0444

Deletions

We are deleting § 417.431 from § 400.310 because it was added in error. The OMB approval number 0938–0610 had been assigned to sections that appeared in parts 417 and 431 and are correctly identified in § 400.310.

Redesignations

Several regulation sections that were previously approved by OMB were subsequently redesignated under other sections and are listed below.

Old section	New section
405.1413	486.104
405.1414	486.106
405.1416	486.110
405.1716	485.709
405.1717	485.711
405.1720	485.717
405.1721	485.719
405.1722	485.721
405.1723	485.723
405.1724	485.725
405.1725	485.727
405.1726	485.729
405.1733	486.155
405.1736	486.161
405.1737	486.163
411.65	411.165
417.107	417.126

For the convenience of the reader, we are presenting the entire updated display of all OMB approval numbers in this final rule.

III. Regulatory Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless we certify that a final rule will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the Regulatory Flexibilty Act. For purposes of section 1102(b) of the Social Security Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

As noted above, this regulation is technical in nature and merely updates the display of currently valid control numbers assigned by the OMB to collections of information contained in our regulations. Therefore, we certify, that this final rule will not result in a

significant economic impact on a substantial number of small entities and will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

Accordingly, we are not preparing analyses for either the Regulatory Flexibility Act or section 1102(b) of the Social Security Act.

IV. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a general notice of proposed rulemaking in the **Federal Register**, and invite public comment on the proposed rule. The proposed rule includes a reference to the legal authority under which the rule is proposed, and a description of the subjects and issues involved. In addition, section 1871 of the Social Security Act generally requires a 60-day public comment period. However, this procedure can be waived when an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and its reasons in the rule issued.

We routinely publish a notice in the **Federal Register** when an information collection requirement clearance request that is identified in a rule or notice is submitted to OMB and the public is offered an opportunity to comment. This regulation is technical in nature and merely updates the display of OMB-assigned control numbers of approved collection of information requirements contained in our regulations. Therefore, it would be redundant and provide an unnecessary delay to solicit comments on this display of the approved OMB control numbers.

For the above reasons, we find good cause to waive both proposed notice and comment rulemaking procedure and a delay in the effective date as impracticable, unnecessary, and contrary to the public interest. Under these circumstances publication of the correct up-to-date rules without further delay best serves those governed by these regulations.

List of Subjects in 42 CFR Part 400

Grant program—health, Health facilities, Health maintenance organizations (HMOs), Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 400 is amended as set forth below.

PART 400—INTRODUCTION; DEFINITIONS

1. The authority citation for part 400 continues to read as follows:

Authority: Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

2. Section 400.310 is revised to read as follows:

§ 400.310 Display of currently valid OMB control numbers.

Sections in 42 CFR that contain collections of information	Current OMB control Nos.
403.510	0938—0641
405.481	0938—0285
405.509	0938—0666
405.512	0938—0008
405.552	0938—0285
405.2112, 405.2123, 405.2134, 405.2136–405.2140, 405.2171	0938—0386
409.43	0938—0365
410.105	0938—0267
411.25, 411.32	0938—0564
411.54	0938—0558
411.165	0938—0564
411.404, 411.406	0938—0465
411.408	0938—0566
412.42	0938—0666
412.92	0938—0477
412.105	0938—0456
412.230, 412.232, 412.234, 412.236, 412.254, 412.260, 412.266, 412.278	0938—0573
416.43	0938—0506
416.47	0938—0286 and 0938—0506
417.126	0938—0472
417.436, 417.801	0938—0610
418.22, 418.24, 418.28, 418.56, 418.58, 418.70, 418.74	0938—0302
418.30, 418.82, 418.83, 418.96, 418.100	0938—0475
418.96, 418.100	0938—0302
421.117	0938—0542
424.3	0938—0008
424.5, 424.7, 424.20	0938—0454
424.22	0938—0469
424.32, 424.34	0938—0008
431.17	0938—0467
431.50, 431.52, 431.55	0938—0247
431.107	0938—0610
431.306	0938—0467
431.625	0938—0247
431.630	0938—0445
431.800	0938—0247
431.806, 431.830, 431.832, 431.834, 431.836	0938—0438
432.50	0938—0459
433.36, 433.37	0938—0247
433.68, 433.74	0938—0618
433.110, 433.112–433.114, 433.116, 433.117, 433.119–433.121, 433.123, 433.127, 433.130, 433.131, 433.135	0938—0247
433.138	0938—0502 0938—0553 and 0938—0555
433.139	0938—0459 0938—0564 and 0938—0555
434.27	0938—0572
434.28	0938—0610
435.1, 435.910, 435.919, 435.920, 435.940, 435.945, 435.948, 435.952, 435.953, 435.955, 435.960, 435.965, 435.1003, 441.11, 441.15, 441.20	0938—0247
441.56, 441.58, 441.60, 441.61	0938—0354
441.302	0938—0449
441.303	0938—0272 and 0938—0449
441.351, 441.352, 441.353, 441.356, 441.365	0938—0613
442.505	0938—0366
447.31	0938—0287
447.45, 447.50, 447.51, 447.52	0938—0247
447.53	0938—0429
447.55	0938—0247
447.253	0938—0366 0938—0523 and 0938—0556
447.255	0938—0193
447.272, 447.299	0938—0618
447.302, 447.331, 447.332, 447.333	0938—0247
456.80	0938—0247
456.654	0938—0445
456.700, 456.705, 456.709, 456.711, 456.712	0938—0659
462.102, 462.103	0938—0526
466.70, 466.72, 466.74	0938—0445
466.78	0938—0445 and 0938—0666
466.80, 466.94	0938—0445
473.18, 473.34, 473.36, 473.42	0938—0443
476.104, 476.105, 476.116, 476.134	0938—0426
481.61	0938—0328
482.12, 482.21, 482.22, 482.27, 482.30, 482.41, 482.43, 482.53, 482.56, 482.57, 482.60, 482.62	0938—0328
483.10	0938—0610
483.410, 483.420, 483.440, 483.460, 483.470	0938—0366
484.1, 484.2	0938—0365
484.10	0938—0365 and 0938—0610
484.12, 484.14, 484.16, 484.18, 484.30, 484.32, 484.34, 484.36, 484.48, 484.52	0938—0366
485.56, 485.58, 485.60, 485.64, 485.66	0938—0267 and 0938—0538
485.709, 485.711, 485.717, 485.719, 485.721, 487.723, 485.725, 485.727 485.725	0938—0336
486.104, 486.106, 486.110	0938—0338
486.155, 486.161, 486.163	0938—0336
488.10	0938—0646
488.18	0938—0667
488.26	0938—0646
489.20	0938—0564 and 0938—0667

Sections in 42 CFR that contain collections of information	Current OMB control Nos.
489.24	0938—0334 0938—0563 and 0938—0657
489.102	0938—0610
491.9, 491.10	0938—0334
493.35, 493.37, 493.39, 493.43, 493.45, 493.47, 493.49, 493.51, 493.53,.	
493.55, 493.60, 493.61, 493.62, 493.63	0938—0612
493.614, 493.633, 494.634	0938—0607
493.801–493.1285, 493.1425, 493.1701, 493.1703, 493.1705, 493.1707, 493.1709, 493.1711, 493.1713, 493.1715, 493.1717, 493.1719, 493.1721, 493.1775, 493.1776, 493.1777, 493.1780, 493.2001	0938—0612
494.52, 494.54, 494.56, 494.58, 494.64	0938—0608
498.22, 498.40, 498.58, 498.82	0938—0508
1004.40, 1004.50, 1004.60, 1004.70	0938—0444

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance Program, Program No. 93.778, Medical Assistance Program)

Dated: September 22, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–24383 Filed 9–28–95; 8:45 am]

BILLING CODE 4120–01–P

42 CFR Parts 485 and 486

[BPD–836–FC]

Medicare Program—Providers and Suppliers of Specialized Services: Technical Amendments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This rule makes editorial and clarifying changes in the regulations that pertain to providers and suppliers of specialized services. It also adds a new subpart A to those that pertain to suppliers. These changes are purely technical and have no substantive effect on the Medicare program.

DATES: *Effective date:* This rule is effective as of September 27, 1991. *Comment date:* We will consider comments received by November 28, 1995.

ADDRESSES: Please mail original and 3 copies of your comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–836–FC, P.O. Box 26676, Baltimore, MD 21207.

If you prefer, you may deliver original and 3 copies of your comments to either of the following addresses:

Room 309–G, 200 Independence Avenue, SW, Washington, DC 20201

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850

Due to staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–836–FC.

Written comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of the document, in room 309G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, Monday through Friday, from 8:30 a.m. to 5 p.m. (Phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Luisa V. Iglesias, (202) 690–6383.

SUPPLEMENTARY INFORMATION: On January 9, 1995, we published a technical regulation identified as BPD–798–FC (at 60 FR 2325) to reorganize the HCFA regulations that pertain to specialized services. The rules that pertain to specialized services furnished by providers were redesignated under part 485, and the rules that pertain to specialized services furnished by suppliers were redesignated under a new part 486. As explained in the preamble to BPD–798–FC, regulations on organ procurement organizations (OPOs) and on screening mammographies were not relocated to part 486 because they were in the process of undergoing substantive changes.

No comments were received on the January 9 publication. However, for reasons indicated below, we need to make changes in parts 485 and 486.

The final rules on OPOs have been delayed. To ensure that in the October 1, 1995 edition of the Code of Federal Regulations the current rules on OPOs (which are not providers) appear in the appropriate part, we are redesignating them as subpart G of part 486.

The rules on mammographies have been redesignated under § 410.34 of the HCFA regulations and that section specifies that certain Food and Drug Administration rules also apply.

We are adding a new "Basis and scope" section to part 486. One purpose of the new section is to inform the reader of where the conditions for coverage for other specialized services furnished by suppliers are to be found.

This rule also—

- Clarifies and simplifies 3 definitions in part 485;
- Provides uniform heading format for all sections of redesignated subpart G and revises some of those headings; and
- Corrects internal cross-references as required by the redesignations.

Collection of Information Requirements

This rule contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Waiver of Proposed Rulemaking and Delayed Effective Date

The changes made by this rule are purely technical and editorial and have no substantive impact. Accordingly, we find that there is good cause to waive proposed rulemaking procedures as unnecessary.

In addition, it is important, for the convenience of the public, that these changes be effective as of October 1, 1995, so that they will appear in the 1995 edition of the Code of Federal Regulations on which the public relies. Accordingly, we find that there is also good cause to waive the usual 30-day delay in the effective date.

Response to Comments

Although this is a final rule, we will consider timely comments from anyone who believes that, in making the technical and editorial changes, we have unintentionally changed the substance of the regulations. Although we cannot respond to comments individually, if we revise this rule as a result of comments, we will discuss all timely comments in the preamble to the revised rule.

Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) and section 1102(b) of the Social Security Act, we prepare a regulatory flexibility analysis for each rule unless we can certify that the particular rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operation of a substantial number of small rural hospitals.

The RFA defines "small entity" as a small business, a nonprofit enterprise, or a governmental jurisdiction (such as a county, city, or township) with a population of less than 50,000. We also

consider all providers and suppliers to be small entities. For purposes of section 1102(b) of the Act, we define small rural hospital as a hospital that has fewer than 50 beds, and is not located in a Metropolitan Statistical Area.

We have not prepared a regulatory flexibility analysis because we have determined and we certify that this rule (which makes only technical and editorial changes) will not have a significant economic impact on a substantial number of small entities nor a significant impact on the operation of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this rule was not reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 485

Grant programs—health, Health facilities, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 486

Health professionals, Medicare, Organ procurement, X-rays.

42 CFR Chapter IV is amended as set forth below.

PART 485—CONDITIONS OF PARTICIPATION; PROVIDERS OF SPECIALIZED SERVICES

A. Part 485 is amended as set forth below.

1. The authority citation for part 485 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§§ 485.301 through 485.309 and 485.311 [Redesignated]

2. Subpart D of part 485, consisting of §§ 485.301 through 485.309 and 485.311, is redesignated as subpart G of part 486 in accordance with the following redesignation table:

Old section (subpart D of part 485)	New section (subpart G of part 486)
485.301	486.301
485.302	486.302
485.303	486.304
485.304	486.306
485.305	486.308
485.306	486.310
485.307	486.314
485.308	486.316
485.309	486.318
485.311	486.325

3. Section 485.703 is amended to revise the definitions of "clinic", "rehabilitation agency", and "supervision", to read as follows:

§ 485.703 Definitions.

Clinic. A facility that is established primarily to furnish outpatient physician services and that meets the following tests of physician involvement:

(1) The medical services are furnished by a group of three or more physicians practicing medicine together.

(2) A physician is present during all hours of operation of the clinic to furnish medical services, as distinguished from purely administrative services.

* * * * *

Rehabilitation agency. An agency that—

(1) Provides an integrated multidisciplinary rehabilitation program designed to upgrade the physical functioning of handicapped disabled individuals by bringing specialized rehabilitation staff together to perform as a team; and

(2) Provides at least the following services:

(i) Physical therapy or speech-language pathology services.

(ii) Social or vocational adjustment services.

Supervision. Authoritative procedural guidance that is for the accomplishment of a function or activity and that—

(1) Includes initial direction and periodic observation of the actual performance of the function or activity; and

(2) Is furnished by a qualified person—

(i) Whose sphere of competence encompasses the particular function or activity; and

(ii) Who (unless otherwise provided in this subpart) is on the premises if the person performing the function or activity does not meet the assistant-level practitioner qualifications specified in § 485.705.

4. In the following sections, the section heading is amended to change the dash to a colon and to capitalize the first word after the colon:

§§ 485.709, 485.713, 485.717, 485,719, and 485.725.

PART 486—CONDITIONS FOR COVERAGE OF SPECIALIZED SERVICES FURNISHED BY SUPPLIERS

B. Part 486 is amended as set forth below.

1. The heading of part 486 is revised to read as set forth above.

2. The authority citation for part 486 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

3. A new subpart A is added, to read as follows:

Subpart A—General Provisions

Sec.
486.1 Basis and scope.

§ 486.1 Basis and scope.

(a) *Statutory basis.* This part is based on the following sections of the Act:

1138(b)—for coverage of organ procurement services.

1861(p)—for coverage of outpatient physical therapy services furnished by physical therapists in independent practice.

1861(s) (3), (15), and (17)—for coverage of portable X-ray services.

(b) *Scope.* (1) This part sets forth the conditions for coverage of certain specialized services that are furnished by suppliers and that are not specified in other portions of this chapter.

(2) The conditions for coverage of other specialized services furnished by suppliers are set forth in the following regulations which, unless otherwise indicated, are part of this chapter:

(i) Ambulatory surgical center (ASC) services—Part 416.

(ii) Ambulance services—Part 410, subpart B.

(iii) ESRD services—Part 405, subpart U.

(iv) Laboratory services—Part 493.

(v) Mammography services—Part 410, subpart B (§ 410.34) and 21 CFR Part 900, subpart B, of the Food and Drug Administration regulations.

(vi) Rural health clinic and Federally qualified health center services—Part 491, subpart A.

§ 486.110 [Amended]

4. In § 486.110(b), "outlined in § 405.1415." is revised to read "outlined in § 486.108.".

5. Subparts E and F are added and reserved.

6. In newly designated subpart G, the headings of the specified sections are revised to read as follows:

§ 486.304 General requirements.

§ 486.306 Qualifications for designation as an OPO.

§ 486.308 Condition: Participation in organ procurement and transplantation network.

§ 486.310 Condition: Adherence to performance standards.

§ 486.314 Effect of failure to meet requirements.

§ 486.325 Termination of agreement with HCFA.

7. In newly designated subpart G, all references to the section numbers listed in the following left-hand column are corrected to read as shown in the right-hand column:

Sec.	Sec.
485.303	486.304
485.304	486.306
405.305	486.308
485.306	486.310
485.309	486.318

The references that are being corrected appear in the following sections: §§ 486.302, 486.304(b)(3) and (b)(5) through (b)(7), 486.314, 486.316 introductory text, and 486.318(b).

(Catalog of Federal Domestic Assistance Program No. 93–773, Medicare—Hospital Insurance, and No. 93–774, Medicare—Supplementary Medical Insurance)

Dated: September 11, 1995

Bruce C. Vladeck

Administrator, Health Care Financing Administration.

[FR Doc. 95–24384 Filed 9–28–95; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 5460, 5510, 9230, and 9260

[WO–230–6310–02–24 1A; Circular No. 2660]

RIN 1004–AB97

Free Use of Timber: General; Trespass; Law Enforcement: Criminal

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends provisions of the existing Bureau of Land Management (BLM) regulations on timber trespass. The rule edits the existing regulations to make them more orderly and easier to read, and adds a list of prohibited acts necessary to provide guidance concerning the administration of forest product contracts and free use permits, and law enforcement.

EFFECTIVE DATE: October 30, 1995.

ADDRESSES: Suggestions or inquiries should be sent to Director (230), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Bob Bierer, (202) 452–7755.

SUPPLEMENTARY INFORMATION: The BLM published a proposed rule on timber trespass in the **Federal Register** on September 13, 1993 (58 FR 47847), requesting comments by November 12, 1993. During the 60-day comment period, comments were received from 3 forest industry associations. The comments are discussed in the same sequence as the sections of the proposed rule. Many of the suggestions were adopted and are reflected in the final rule.

The rule is a continuation of the effort to provide more effective control of trespass of timber and other vegetative resources on public lands. It provides further guidance to supplement the final rule published on March 11, 1991 (56 FR 10173), and includes specific prohibited acts to which BLM law enforcement personnel can refer to in issuing citations.

General Comments

The three comments noted in support of the proposed rule that theft of any timber is a serious matter and there is continued support for strong law enforcement activities, including prosecution of any person found guilty of stealing federal timber.

The law enforcement and resource protection program of the BLM is quite often involved in detecting and resolving trespasses against and thefts of timber and other vegetative resources. Uncertainty in prohibited acts or applicable penalties often causes their efforts to obtain criminal prosecution to be unsuccessful. The prohibited acts set forth in this rule will enhance law enforcement actions and serve as a deterrent to future trespass.

One comment suggested that a timber contract should allow sufficient flexibility to assure that the objectives of both parties are satisfied, especially when circumstances arise that were unforeseen at the time of contract formation. That is the intent of this final rule.

Comments on Amendment of 43 CFR Part 5460

Two comments stated that the prohibited acts relate only to BLM-administered lands and that the final rule should clearly state this limitation. The language in § 5462.2(a) has been amended to clarify this point.

Another comment suggested deletion of the phrase "See § 9239.1 of this title for trespass and subpart 9265 of this title for criminal prosecution" from 5462.2(a). The comment has been adopted. The cross-reference is rendered unnecessary by the addition of the penalty provision at § 5462.2(c).

A comment suggested that the language in § 5462.2(b)(1) is ambiguous as to what may constitute "otherwise damaging any timber" and suggested that additional specific criteria as to what constitutes "damage" be developed to avoid arbitrary and inconsistent on-the-ground decisions. The prework conference required prior to commencement of operations provided for in the BLM Timber Sale Procedure Handbook is designed to discuss and clarify concerns such as this, and, in the context of cutting and removing timber, we do not consider "otherwise damaging any timber" to be ambiguous. The comment was not adopted.

On § 5462.2(b)(2), the comments pointed out that while it is proper in most situations to require a BLM employee to mark or designate all standing timber before it can be cut, there are instances where a logger has conflicting direction from two different Federal agencies or regulations. For example, Occupational Safety and Health Act (OSHA) regulations require operators to fell any tree constituting a hazard to safe working conditions immediately, and failure to do so may subject them to a fine. The only option available to the operator is to leave the area until a BLM employee arrives and designates the tree for felling, which is impractical for both parties. The comments noted that some allowance needs to be made for safety, or the agency must guarantee timely timber sale administration. Again, prework conferences are intended to resolve potential conflicts and procedural problems such as this, and the comments were not adopted in the final rule.

Three comments recommended removing § 5462.2(b)(3), because BLM no longer offers scaled sales. The comments were not adopted since this prohibited act is intended primarily for small salvage and firewood sales, and the BLM may occasionally offer scaled salvage timber sales where appropriate to harvest dead timber promptly to preclude excessive deterioration.

Three comments suggested that § 5462.2(b)(4) should be changed to

specify that marking or designating products in a similar manner to that employed by BLM applies only to BLM-administered lands. These comments were adopted and language added to clarify this point.

Three comments argued that proposed § 5462.2(b)(6) could result in numerous timber sale defaults, not related to timber theft. Many timber sale contract violations are minor and should be dealt with under the terms and conditions of the contract. The recommendation to remove this paragraph has been adopted in the final rule.

Three comments stated that the language in § 5462.2(b)(5) and (7) would require all persons working on a BLM timber sale or hauling logs from a sale to have copies of the contract or permit in their possession and that this is unreasonable. They suggested that requiring the purchaser or its designated representative to have a copy of the contract, as well as requiring each truck driver to have copies of the haul permit, should satisfy any accountability objective. This is an acceptable alternative, and provides for sufficient documentation and accountability. Language has therefore been added to adopt these comments.

One comment noted that § 5462.2(b)(7) authorizes any BLM employee to stop people associated with a timber sale at any time and demand that they produce a permit or contract. It questions whether all BLM employees have sufficient experience with timber sales to warrant such authority. Language was added to limit the BLM personnel to those persons acting within their designated authority as sale inspectors, contract administrators, contracting officers, and law enforcement officers.

Several comments stated that BLM lacks authority to enforce State and local laws, especially in the absence of a cooperative law enforcement agreement, and that BLM employees should concentrate their efforts on on-the-ground inspection of timber sale operations rather than enforcing State and local laws. Section 5462.2(b)(8) of the proposed rule has been amended in the final rule to make it consistent with the Federal Land Policy and Management Act provision for cooperation with State and local regulatory and law enforcement officials (43 U.S.C. 1733(d)) and the language in § 5462.2(b)(1).

For purposes of clarity, the phrase "by fraud" in § 5462.2(b)(10) of the proposed rule has been removed and replaced with language more precisely defining what constitutes fraud as it relates to timber and other vegetative resources.

Three comments suggested that BLM define what constitutes a negligent act by an operator referred to in § 5462.2(b)(11). One of the comments added that the concept of negligence should be removed and the BLM focus on "intentional destruction." These comments were not adopted in the final rule. The prework conferences provided for in standard BLM timber sale contracts are the appropriate forums to discuss and clarify what constitutes a "negligent act."

The paragraphs of § 5462.2(b) have been renumbered in the final rule to accommodate the removal of paragraphs (3) and (6).

A comment recommended addition of a new § 5462.3 entitled "Penalties" with a description of the penalties for knowingly and willfully violating the prohibited acts under § 5462.2(b) to make it clear that criminal penalties apply to the prohibited acts. This comment has been adopted in the final rule, but by adding a new paragraph (c) to § 5462.2 rather than a new § 5462.3.

Comments on Amendments to 43 CFR Subpart 5511

One comment recommended removal of the phrase "See § 9239.1 of this title for trespass and subpart 9265 of this title for criminal prosecution" from § 5511.4(a). The comment was adopted. The cross-reference is rendered unnecessary by the addition of § 5511.5—Penalties.

A comment recommended addition of a new § 5511.5 entitled "Penalties" with a description of the penalties for knowingly and willfully violating the prohibited acts under 5511.4(b) to make it clear again that criminal penalties apply. The comment was adopted.

Comments on Amendment of 43 CFR Part 9230

No public comments addressed this part in the proposed rule. The BLM is currently in the process of updating and amending part 9230—Trespass. The changes promulgated in this rule relating to timber trespass will be included in the subsequent revision of part 9230.

Comments on Amendment of 43 CFR Part 9260

The BLM is also preparing to update and revise part 9260—Law Enforcement—Criminal. Organizational changes in § 9265.6 have been adopted in the final rule and language has been added to that section detailing how penalties will be determined. These changes are made in order to standardize the penalty provisions in the various regulations that relate to timber, trees, and other vegetative resources. Paragraphs (a) and (b)(1) in the final rule are new and refer to the penalties imposed under the Sentencing Reform Act of 1984 (18 U.S.C. 3551 et seq.), as they apply to the regulations for timber sales administration and free use of timber. The penalties are statutory and would apply whether they appear in the regulations or not. Paragraph (a) in the proposed rule has been renumbered (c), and paragraph (b) in the proposed rule has been renumbered (b)(2) in the final rule. Cross references to other regulations in title 43 governing the use of timber for mining and agriculture have been added to paragraph (b)(2). Paragraph (c) in the proposed rule has been renumbered (d) in the final rule to accommodate the earlier additions. No public comments addressed this part in the proposed rule.

The principal author of this final rule is Robert Bierer, Biological and Heritage Implementation Team, assisted by the Regulatory Management Team, BLM.

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The BLM has determined that this final rule will not create environmental impacts. No critical element of the human environment is affected because the final rule merely promulgates a series of prohibited acts related to the ministerial aspects of the administration of timber sales contracts and the free use of timber. It does not prescribe or prohibit any substantive activities or methods for carrying out timber harvest operations on BLM-managed lands. It prohibits harvesting and removing timber without the requisite permits or haul tickets, prohibits the violation of other laws and regulations, including State and local laws, and using fraud or trickery to obtain a free-use permit. No sales or new uses of timber, and no other uses of land and resources, are authorized by this rule.

This rule was not subject to review by the Office of Management and Budget under Executive Order 12866.

The Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that the rule will not have a significant economic impact on a substantial number of small entities. There will be no cost increases imposed on the lumber industry other than those caused by violations of law, and there would thus be no economic effect on

small business entities that do not violate the law. Also, the rule does not distinguish between business entities based on their size.

The Department certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights. There will be no private property rights impaired as a result of this rule. Therefore, as required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects

43 CFR Part 5460

Forest and forest products, Government contracts, Public lands.

43 CFR Part 5510

Forest and forest products, Public lands, Surety bonds.

43 CFR Part 9230

Penalties, Public lands.

43 CFR Part 9260

Penalties, Public lands.

Dated: July 19, 1995.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

For the reasons stated in the preamble, and under the authorities cited below, parts 5460 of Group 5000, 5510 of Group 5500, Subchapter E, and parts 9230, and 9260 of Group 9200, Subchapter I, Chapter II of Title 43 of the Code of Federal Regulations are amended as set forth below:

PART 5460—SALES ADMINISTRATION

1. The authority citation for part 5460 continues to read as follows:

Authority: 30 U.S.C. 601 et seq.; 43 U.S.C. 1181e.

2. Subpart 5462 is amended by adding new paragraph (c) to § 5462.1 and new §§ 5462.2 and 5462.3 to read as follows:

§ 5462.1 Contract and permit compliance.

* * * * *

(c)(1) The authorized officer may cancel a contract or permit upon determining that the holder has failed to comply with a law or regulation pertinent to the contract or permit. The authorized officer may also cancel a contract or permit upon determining that the holder has failed to comply with a stipulation or requirement contained in the contract or permit and the noncompliance is detrimental to the public interest. Individual contracts or permits may contain specific language defining the remedies or penalties associated with noncompliance.

(2) Cancellation shall be mandatory in cases of intentional falsification of information used to obtain the permit or contract.

§ 5462.2 Prohibited acts.

(a) The acts or omissions listed in paragraph (b) of this section apply only to BLM-administered lands and will render the person(s) responsible liable to the United States in a civil action for trespass, and such person(s) may be prosecuted criminally. If the authorized officer determines such acts or omissions to be detrimental to the public interest, the timber sale contract or permit held by the purchaser responsible for such acts or omissions may be canceled.

(b) The following activities are prohibited:

(1) Cutting, removing, or otherwise damaging any timber, tree, or other vegetative resource, except as authorized by a forest product sale contract, permit, or Federal law or regulation.

(2) Cutting any standing tree, under a permit or timber sale contract, before a BLM employee has marked it or has otherwise designated it for cutting.

(3) Removing any timber or other vegetative resource cut under a permit or timber sale contract, except to a place designated for scaling or measurement, or removing it from that place before it is scaled, measured, counted, or otherwise accounted for by a BLM employee.

(4) Stamping, marking with paint, tagging, or otherwise identifying any tree or other vegetative resources on BLM-administered lands in a manner similar to that employed by BLM employees to mark or designate a tree or other vegetative resources for cutting, removal, or transportation.

(5) Transporting timber or other vegetative resources without a valid haul ticket that pertains to the material in question, except as authorized by Federal law or regulation.

(6) Except as authorized by Federal law or regulation, purchasers or their designated representatives, while engaging in any activity connected with the harvest or removal of forest products, failing to have in their possession and/or failing to produce any required permit or forest product sale contract for inspection upon demand by a BLM employee or any official of a cooperating law enforcement agency acting within his or her designated authority as a sale inspector, administrator, contracting officer, or law enforcement officer.

(7) Violating any State or local laws and ordinances relating to local permits, tagging, and transportation of timber, trees, or other vegetative resources.

(8) Violating any of the provisions regulating export and substitution contained in subparts 5400, 5403, and 5420 of this title.

(9) Obtaining any forest product sale contract or permit or taking any timber, trees, or other vegetative resources through falsifying, concealing, or covering up by any trick, scheme, or device a material fact, or making any false, fictitious, or fraudulent statement or representation, or making or using a false, fictitious, or fraudulent statement or entry, including altering any forest product sales contract or permit or using an unauthorized reproduction of any official load tag.

(10) Negligent or intentional destruction of or injury to any timber or other vegetative resource during operations under a forest product sale contract or permit.

§ 5462.3 Penalties.

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), any individual who knowingly and willfully commits the prohibited acts under § 5462.2(b) is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $100,000 in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $200,000.

PART 5510—FREE USE OF TIMBER

3. The authority citation for part 5510 continues to read as follows:

Authority: 61 Stat. 681, as amended; 69 Stat. 367; 48 Stat. 1269, sec. 11, 30 Stat. 414, as amended, R.S. 2478, sec. 323, 41 Stat. 450; 30 U.S.C. 601 *et seq.*, 43 U.S.C. 315, 48 U.S.C. 423, 43 U.S.C. 1201, 30 U.S.C. 189.

Subpart 5511—Free Use Regulations

§ 5511.1–1 [Amended]

4. Section 5511.1–1 is amended by removing paragraph (f)(3).

§ 5511.1–4 [Amended]

5. Section 5511.1–4 is amended by removing paragraphs (e) and (f).

6. Section 5511.2–1 is amended by revising paragraph (a) to read as follows:

§ 5511.2–1 Free use privilege; cutting by agent.

(a) Except as provided in § 5511.1–4 the only timber which may be cut under §§ 5511.2–1 through 5511.2–5 for free use in Alaska is timber on vacant public lands in the State not reserved for national forest or other purposes. The timber so cut may not be sold or bartered. The free use privilege does not extend to associations or corporations, except churches, hospitals, and charitable institutions. Any applicant entitled to the free use of timber may procure it by agent, if desired, but no part of the timber may be used in payment for services in obtaining it or in manufacturing it into lumber. Timber may not be cut by an applicant under this section after the land has been included in a valid homestead settlement or entry or other claim, except that any applicant for the free use of timber who has been granted a permit to cut as hereinafter provided, will have a right to cut the timber while the permit remains in force as against a subsequent applicant who may wish to obtain the same timber by purchase.

* * * * *

§ 5511.2–4 [Amended]

7. Section 5511.2–4 is amended by revising the reference "5511.2–6" to read "5511.2–5".

§ 5511.2–5 [Amended]

8. Section 5511.2–5 is removed.

§ 5511.2–7 [Redesignated as § 5511.2–5 and amended]

9. Section 5511.2–7 is redesignated as § 5511.2–5 and the reference "§ 5511.2–4" at the end of the section is revised to read "§ 5511.1–4".

10. Section 5511.4 is added to read as follows:

§ 5511.4 Prohibited acts.

(a) In addition to the prohibited acts listed in § 5462.2, the acts or omissions listed in paragraph (b) will render the person(s) responsible liable to the United States in a civil action for trespass and such persons may be prosecuted criminally.

(b) The following acts are prohibited:

(1) Obtaining any free use permit or taking any timber, trees, or other vegetative resources through falsifying, concealing, or covering up by any trick, scheme, or device a material fact, or making any false, fictitious, or fraudulent statements or representations, or making or using any false, fictitious or fraudulent statement or entry, including altering of any free use permit or using a reproduction of any official load tags.

(2) Using timber secured under a free use permit for any purpose other than provided for in §§ 5511.1–1(d), 5511.1–2, 5511.1–4, 5511.2–2, 5511.3–6, or 5511.3–8.

(3) Violating any of the terms and conditions of a free use permit.

(4) Exporting timber cut under a free use permit from the State in which it was cut, except as provided in § 5511.1–1(e).

(5) The cutting of timber under a free use permit for sale, barter, speculation, or use by others than the permittee.

11. Section 5511.5 is added to read as follows:

§ 5511.5 Penalties.

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a), any individual who knowingly and willfully commits the prohibited acts under § 5511.4(b) is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $100,000, or not more than $250,000 if commission of the prohibited acts results in death, in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et. seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $200,000, or not more than $500,000 if commission of the prohibited acts results in death.

PART 9230—TRESPASS

12. The authority citation for 43 CFR part 9230 continues to read as follows:

Authority: R.S. 2478; 43 U.S.C. 1201; 43 U.S.C. 1701, et seq.; 18 U.S.C. 1851–1858.

Subpart 9239—Kinds of Trespass

13. Section 9239.1–1 is amended by removing paragraph (c) and (d), and revising the heading and paragraph (b) to read as follows:

§ 9239.1–1 Unauthorized cutting, removal, or injury.

* * * * *

(b) Commission of any of the acts listed in §§ 5462.2 and 5511.4 of this title constitutes a trespass.

14. Section 9239.1–2 is amended by revising the heading and paragraph (a) to read as follows:

§ 9239.1–2 Penalty for trespass.

(a) In accordance with §§ 9239.0–7, 9239.0–8, and 9239.1–1 of this subpart, anyone responsible for a trespass act is liable to the United States in a civil action for damages and may be prosecuted under criminal law as provided in § 9265.6 of this chapter.

* * * * *

15. Section 9239.1–3 is amended by adding paragraph (a)(4) to read as follows:

§ 9239.1–3 Measure of damages.

(a) * * *

(1) * * *

(4) In the case of a purchase from a trespasser, if the purchaser has no knowledge of the trespass, but should have had such knowledge through reasonable diligence, the value at the time of the purchase.

* * * * *

PART 9260—LAW ENFORCEMENT—CRIMINAL

16. The authority citation for 43 CFR part 9260 is revised to read as follows:

Authority: 16 U.S.C. 433; 16 U.S.C. 460*l*–6a; 16 U.S.C. 670j; 16 U.S.C. 1246(i); 16 U.S.C. 1338; 18 U.S.C. 1851–1861; 18 U.S.C. 3551 *et seq.*; 43 U.S.C. 315(a); 43 U.S.C. 1061, 1063; 43 U.S.C. 1733.

Subpart 9265—Timber and Other Vegetative Resources Management

17. The heading of subpart 9265 is revised to read as set forth above.

18. Section 9265.0–3 is amended by inserting after "title 18 U.S.C.," the phrase "and section 1733 of title 43 U.S.C.,".

19. Section 9265.4 is amended by adding text to read as follows:

§ 9265.4 Sales of forest products; general.

Commission of any of the acts listed in § 5462.2 of this title is a violation of Federal regulations and may subject the responsible person(s) to criminal penalties under titles 18 and 43 of the United States Code.

20. Section 9265.5 is revised to read as follows:

§ 9265.5 Non-sale disposals, general.

Commission of any of the acts listed in § 5511.4 of this title is a violation of Federal regulations and may subject the responsible person(s) to criminal penalties under titles 18 and 43 U.S.C.

21. Section 9265.6 is added to read as follows:

§ 9265.6 Penalties.

(a) *Sales administration.* Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), any individual who knowingly and willfully commits the prohibited acts under § 5462.2(b) of this

title is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $100,000 in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $200,000, or not more than $500,000 if commission of the prohibited acts results in death.

(b) *Free use of timber.* (1) Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a), any individual who knowingly and willfully commits the prohibited acts under 5511.4(b) of this title is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $100,000, or not more than $250,000 if commission of the prohibited acts results in death, in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $200,000, or not more than $500,000 if commission of the prohibited acts results in death.

(2) *Exceptions for mining and agriculture.* This section shall not prevent any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or in the preparation of his farm for tillage, or from taking the timber necessary to support his improvements, or the taking of timber for the use of the United States; or take away any right or privilege under any existing law of the United States to cut or remove timber from any public lands. Use or taking of timber for these exceptions is subject to the regulations provided in part 2920—Leases, Permits and Easements, part 3715—Use and Occupancy of Mining Claims, subpart 3802—Exploration and Mining, Wilderness Review Program, and/or subpart 3809—Surface Management.

(c) *Timber removed or transported.* Under 18 U.S.C. 1852, any person:

(1) Who unlawfully cuts, or wantonly destroys, any timber growing on the public lands of the United States;

(2) Who unlawfully removes any timber from said public lands, with intent to export or dispose of the same; or

(3) Who, being the owner, master, pilot, operator, or consignee of any vessel, motor vehicle, or aircraft or the owner, director, or agent of any railroad, knowingly transports any timber unlawfully cut or removed from said lands, or lumber manufactured therefrom; shall be subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $100,000, or not more than $250,000 if commission of the prohibited acts results in death, in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 et seq.), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $200,000, or not more than $500,000 if commission of the prohibited acts results in death.

(d) *Trees cut or injured.* Under 18 U.S.C. 1853, whoever unlawfully cuts, or wantonly injures or destroys any tree growing, standing, or being upon any land of the United States which, in pursuance of law, has been reserved or purchased by the United States for any public use, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under the authority of the United States, or any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $100,000 in accordance with the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than $200,000.

[FR Doc. 95–24289 Filed 9–28–95; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7626]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or

construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
NEW ELIGIBLES—Emergency Program			
Colorado:			
Wiley, town of, Prowers County	080228	August 3, 1995	
Michigan:			
Deerfield, township of, Lapeer County	260434	August 7, 1995	May 13, 1977.
Missouri:			
Knob Noster, city of, Johnson County	290724	.....do	June 27, 1975.
South Carolina: Edgefield, town of, Edgefield County	450074	August 14, 1995	May 24, 1974.
South Dakota:			
Grenville, town of, Day County	461201	August 18, 1995	
Sully County, unincorporated areas	460288	.....do	
NEW ELIGIBLES—Regular Program			
Ohio:			
Marble Cliff, village of, Franklin County	390898	August 2, 1995	August 2, 1995.
WITHDRAWN			
Indiana:			
Alton, town of, Crawford County	180031	March 19, 1984, Emerg.; March 19, 1984, Reg.; August 14, 1995 With.	August 1, 1983.
Shoals, town of, Martin County	180166	May 27, 1975, Emerg.; September 1, 1986, Reg.; August 18, 1995, With.	May 16, 1995.
REINSTATEMENTS			
New York:			
Remsen, village of, Oneida County	360541	September 8, 1983, Emerg.; September 24, 1984, Reg.; November 4, 1992; Susp.; August 8, 1995, Rein.	September 24, 1984.
New Mexico:			
Carlsbad, city of, Eddy County	350017	July 21, 1972, Emerg.; March 15, 1978, Reg., April 17, 1978, Susp.; August 15, 1995; Rein.	March 17, 1978.
New York:			
Pitcairn, town of, St. Lawrence County	361184	January 23, 1981, Emerg.; August 13, 1982, Reg.; November 4, 1992, Susp.; August 17, 1995, Rein.	August 13, 1982.
REGULAR PROGRAM CONVERSIONS			
Region V			
Indiana:			
Connersville, city of, Fayette County	180061	August 1, 1995, Suspension withdrawn.	August 1, 1995.
Delphi, city of, Carroll County	180020	.....do	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date
Region II			
New York:			
Ellicottville, town of, Cattaraugus County	360069	August 2, 1995, Suspension withdrawn	August 2, 1995.
Region V			
Indiana:			
Fort Wayne, city of, Allen County	180003	do	Do.
New Haven, city of, Allen County	180004	do	Do.
Monroe County, unincorporated areas	180444	do	Do.
Ohio:			
Bexley, city of, Franklin County	390168	do	Do.
Columbus, city of, Franklin County	390170	do	Do.
Franklin County, unincorporated areas	390167	do	Do.
Gahanna, city of, Franklin County	390171	do	Do.
Glenford, village of, Perry County	390442	do	Do.
Grandview Heights, city of, Franklin County	390172	do	Do.
Grove City, city of, Franklin County	390173	do	Do.
Groveport, village of, Franklin County	390174	do	Do.
Obetz, village of, Franklin County	390176	do	Do.
Whitehall, city of, Franklin County	390180	do	Do.
Region VI			
Arkansas:			
Weiner, city of, Poinsett County	050373	do	Do.
Texas:			
Arlington, city of, Tarrant County	485454	do	Do.
Bedford, city of, Tarrant County	480585	do	Do.
Benbrook, city of, Tarrant County	480586	do	Do.
Blue Mound, city of, Tarrant County	480587	do	Do.
Burleson, city of, Tarrant County	485459	do	Do.
Colleyville, city of, Tarrant County	480590	do	Do.
Crowley, city of, Tarrant County	480591	do	Do.
Dalworthington Gardens, city of, Tarrant County	481013	do	Do.
Edgecliff Village, town of, Tarrant County	480592	do	Do.
Euless, city of, Tarrant County	480593	do	Do.
Everman, city of, Tarrant County	480594	do	Do.
Forest Hill, city of, Tarrant County	480595	do	Do.
Haltom City, city of, Tarrant County	480599	do	Do.
Haslet, city of, Tarrant County	480600	do	Do.
Current Community Effective date effective.			
Hurst, city of, Tarrant County	480601	do	Do.
Lakeside, city of, Tarrant County	480604	do	Do.
Mansfield, city of, Tarrant County	480606	do	Do.
North Richland Hills, city of, Tarrant County	480607	do	Do.
Southlake, city of, Tarrant County	480612	do	Do.
Westover, town of, Tarrant County	480615	do	Do.
Westworth Village, city of, Tarrant County	480616	do	Do.
Region VII			
Missouri:			
Ballwin, city of, St. Louis County	290328	do	Do.
Bella Villa, city of, St. Louis County	290329	do	Do.
Bellefontaine Neighbors, city of, St. Louis County.	290330	do	Do.
Chesterfield, city of, St. Louis County	290896	do	Do.
Clarkson Valley, city of, St. Louis County	290340	do	Do.
Creve Coeur, city of, St. Louis County	290344	do	Do.
Ellisville, city of, St. Louis County	290348	do	Do.
Eureka, city of, St. Louis County	290349	do	Do.
Hazelwood, city of, St. Louis County	290357	do	Do.
Maplewood, city of, St. Louis County	295266	do	Do.
Maryland Heights, city of, St. Louis County	290889	do	Do.
Northwoods, city of, St. Louis County	290372	do	Do.
Norwood Court, village of, St. Louis County	290867	do	Do.
Oakland, city of, St. Louis County	290373	do	Do.
Perniscot County, unincorporated areas	290779	do	Do.
St. John, city of, St. Louis County	290384	do	Do.
St. Louis County, unincorporated areas	290327	do	Do.
Sunset Hills, city of, St. Louis County	290387	do	Do.
Velda Village Hills, village of, St. Louis County	290857	do	Do.
Webster Groves, city of, St. Louis County	290394	do	Do.
Winchester, city of, St. Louis County	290397	do	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date
Region X			
Washington:			
Okanogan, city of, Okanogan County	530119	.....do	Do.
Region II			
New York:			
Charlton, town of, Saratoga County	360712	1995 August 16, 1995, Suspension Withdrawn	August 16, 1995.
Clifton Park, town of, Saratoga County	360713	.....do	Do.
Corinth, town of, Saratoga County	360715	.....do	Do.
Corinth, village of, Saratoga County	360714	.....do	Do.
Mechanicville, city of, Saratoga County	360721	.....do	Do.
Milton, town of, Saratoga County	360722	.....do	Do.
Round Lake, village of, Saratoga County	360726	.....do	Do.
Schuylerville, village of, Saratoga County	360729	.....do	Do.
South Glens Falls, village of, Saratoga County	360730	.....do	Do.
Stillwater, town of, Saratoga County	360731	.....do	Do.
Stillwater, village of, Saratoga County	360732	.....do	Do.
Waterford, town of, Saratoga County	360734	.....do	Do.
Region VI			
Texas:			
Guadalupe County, unincorporated areas	480266	.....do	Do.
LaVernia, city of, Wilson County	481050	.....do	Do.
Wilson County, unincorporated areas	480230	.....do	Do.
Region VII			
Missouri:			
Columbia, city of, Boone County	290036	.....do	Do.
Region VIII			
Colorado:			
Adams County, unincorporated areas	080001	.....do	Do.
Arapahoe County, unincorporated areas	080011	.....do	Do.
Aurora, city of, Adams and Arapahoe Counties	080002	.....do	Do.
Brighton, city of, Adams County	080004	.....do	Do.
Englewood, city of, Arapahoe County	085074	.....do	Do.
Federal Heights, city of, Adams County	080240	.....do	Do.
Greenwood Village, city of, Arapahoe County	080195	.....do	Do.
Sheridan, city of, Arapahoe County	080018	.....do	Do.
Region II			
Virgin Island:			
Island of St. John	780000	September 20, 1995, Suspension Withdrawn	September 20, 1995.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: September 25, 1995.

Robert H. Volland,

Deputy Associate Director, Mitigation Directorate.

[FR Doc. 95–24260 Filed 9–28–95; 8:45 am]

BILLING CODE 6718–21–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 1, 2, 5, 6, 10, 12, 14, 16, 25, 28, 30, 31, 32, 33, 34, 35, 39, 50, 52, 53, 54, 56, 57, 58, 59, 61, 62, 63, 69, 70, 71, 72, 75, 76, 77, 78, 90, 91, 92, 93, 94, 95, 96, 97, 98, 107, 108, 110, 147, 148, 150, 151, 153, 154, 160, 161, 162, 164, 167, 169, 170, 174, 175, 180, 181, 182, 183, 184, 188, 189, 190, 192, 193, 196, and 197

[CGD 95–072]

RIN 2115 AF21

Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends Title 46, Code of Federal Regulations to reflect recent agency organizational changes. It also makes editorial changes throughout the title to correct addresses, update cross-references, and other technical corrections requested by the Federal Register. This rule makes no substantive changes to current regulations.

EFFECTIVE DATE: This rule is effective on September 29, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT:

Janet Walton, Project Manager, Standards Evaluation and Development Division (G–MES–2), (202) 267–0257.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Janet Walton, Project Manager, Standards Evaluation and Development Division, and C.G. Green, Project Counsel, Office of Chief Counsel.

Background and Purpose

Each year Title 46 of the Code of Federal Regulations is recodified on October 1. This rule makes miscellaneous editorial changes and conforming amendments, including changes brought about by the reorganization of the Office of Marine Safety, Security and Environmental Protection (G–M) at Coast Guard Headquarters, to be included in the 1995 recodification of Title 46.

Although the office of G–M recently went through a comprehensive reorganization, its functions are unchanged. This rule reflects the redistribution of office functions and responsibilities to the three new directorates and their subordinate divisions in the Office. Paragraph (b)(1) of § 1.01–10 has been rewritten to describe the new directorates and divisions and nomenclature changes have been made throughout the Title. These new organizational elements have been functioning since August 1, 1995, and this document will update their descriptions in the Code of Federal Regulations.

The rule also makes editorial changes throughout the title to correct addresses, update cross-references, and other technical corrections requested by the Federal Register. The rule does not change any substantive requirements of existing regulations.

Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than 30 days after publication in the **Federal Register**. Therefore, this final rule is effective upon publication in the **Federal Register**.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures, it will not impose any costs on the public.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs 2.B.2.e. (34) (a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 5

Administrative practice and procedure, Alcohol abuse, Drug abuse, Investigations, Seamen.

46 CFR Part 6

Navigation (water), Reporting and recordkeeping requirements, Vessels.

46 CFR Part 10

Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Reporting and recordkeeping requirements, Seamen.

46 CFR Part 14

Oceanographic research vessels, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 16

Drug testing, Marine safety, Reporting and recordkeeping requirements, Safety, Transportation.

46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 28

Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties; Reporting and recordkeeping requirements, Seamen.

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 32

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 33

Cargo vessels, Marine safety, Occupational safety and health, Seamen.

46 CFR Part 34

Cargo vessels, Fire prevention, Marine safety.

46 CFR Part 35

Cargo vessels, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 39

Cargo vessels, Fire prevention, Hazardous materials transportation, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 50

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 52

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 53

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 54

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 56

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 57

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 58

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 59

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 61

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 62

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 63

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 69

Measurement standards, Penalties, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 70

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 72

Fire prevention, Marine safety, Occupational safety and health, Passenger vessels, Seamen.

46 CFR Part 75

Marine safety, Passenger vessels.

46 CFR Part 76

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 77

Marine safety, Navigation (water), Passenger vessels.

46 CFR Part 78

Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 90

Cargo vessels, Marine safety.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 92

Cargo vessels, Fire prevention, Marine safety, Occupational safety and health, Seamen.

46 CFR Part 93

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 94

Cargo vessels, Marine safety.

46 CFR Part 95

Cargo vessels, Fire prevention, Marine safety.

46 CFR Part 96

Cargo vessels, Marine safety, Navigation (water).

46 CFR Part 97

Cargo vessels, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

46 CFR Part 98

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 108

Fire prevention, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 110

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 147

Hazardous materials transportation, Labeling, Marine safety, Packaging and containers, Reporting and recordkeeping requirements.

46 CFR Part 148

Cargo vessels, Hazardous materials transportation, Marine safety.

46 CFR Part 150

Hazardous materials transportation, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 151

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water Pollution control.

46 CFR Part 154

Cargo vessels, Gases, Hazardous materials transpiration, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 160

Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 161

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 162

Fire prevention, Marine safety, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 164

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 167

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, vessels.

46 CFR Part 169

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 170

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 174

Marine safety, Vessels.

46 CFR Part 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 180

Marine safety, Passenger vessels.

46 CFR Part 181

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 182

Marine safety, Passenger vessels.

46 CFR Part 183

Marine safety, Passenger vessels.

46 CFR Part 184

Communications equipment, Marine safety, Navigation (water), Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 188

Marine safety, Oceanographic research vessels.

46 CFR Part 189

Marine safety, Oceanographic research vessels, Reporting and recordkeeping.

46 CFR Part 190

Fire prevention, Marine safety, Occupational safety and health, Oceanographic research vessels.

46 CFR Part 192

Marine safety, Oceanographic research vessels.

46 CFR Part 193

Fire prevention, Marine safety Oceanographic research vessels.

46 CFR Part 196

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

46 CFR Part 197

Benzene, Diving, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR parts 1, 2, 5, 6, 10, 12, 14, 16, 25, 28, 30, 31, 32, 33, 34, 35, 39, 50, 52, 53, 54, 56, 57, 58, 59, 61, 62, 63, 69, 70, 71, 72, 75, 76, 77, 78, 90, 91, 92, 93, 94, 95, 96, 97, 98, 107, 108, 110, 147, 148, 150, 151, 153, 154, 160, 161, 162, 164, 167, 169, 170, 174, 175, 180, 181, 182, 183, 184, 188, 189, 190, 192, 193, 196, and 197 as follows:

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 49 CFR 1.45, 1.46; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

2. In § 1.01–10, paragraph (b)(1) is revised to read as follows:

§ 1.01–10 Organization.

* * * * *

(b) * * *

(1) The Chief, Office of Marine Safety, Security and Environmental Protection, under the general direction of the Commandant, directs, supervises and coordinates the activities of the Directorate for Standards, consisting of the Design and Engineering Standards Division, the Operating and Environmental Standards Division, and the Standards Evaluation and Development Division; the Directorate for Field Activities, consisting of the Compliance Division, the Response Division, and the investigations and Analysis Division; and the Directorate for Resource Management, consisting of the Planning and Resources Division and the Information Resources Division. The Port Safety and Security programs administered by the Chief, Compliance Division and the Marine Environmental Response programs administered by the Chief, Response Division are guided by regulations contained in 33 CFR chapter I. The Chief, Office of Marine Safety, Security and Environmental Protection exercises technical control over the Director, National Maritime Center and, through the District Commander, supervises the administration of the Marine Safety Divisions of District Offices and officers in Charge, Marine Inspection.

(i) The Director for Standards (G–MS), under the general direction and supervision of the Chief, Marine Safety, Security and Environmental Protection, establishes federal policies for development of marine safety, security, and environmental protection treaties, laws, and regulations; develops safety, security and environmental protection standards for the maritime industry; integrates all marine safety and environmental protection regulatory programs; prepares legislation, regulations, and industry guidance for new safety, security, and environmental protection programs; and maintains an active program for development of third party consensus industry standards.

(A) The Chief, Design and Engineering Standards Division (G–MMS), at Headquarters, under the direction of the Chief, Office of Marine Safety, Security and Environmental Protection and the Director for Standards, manages the program for defining the overall regulatory approach for vessels, offshore structures, and other marine systems incorporating safety considerations regarding the role of the human element; develops policies and regulations on load line matters and supervises classification societies authorized to assign load lines on behalf of the Coast Guard; oversees the development and maintenance of programs that incorporate risk-based methods in making safety determinations and policies; and oversees technical research and development for safety and environmental protection associated with marine vessels, structures and facilities.

(B) The Chief, Operating and Environmental Standards Division (G–MOS), at Headquarters, under the direction of the Chief, Office of Marine Safety, Security and Environmental Protection and the Director for Standards, coordinates and integrates program standards for personnel qualification, vessel manning, vessel and facility operations, cargo systems and handling, and environmental protection; develops and maintains standards, regulations and industry guidance for maritime industry operations to prevent deaths, injuries, property damage, and environmental harm; develops and maintains safety standards and regulations for commercial fishing industry vessels and uninspected commercial vessels; and develops and maintains health and safety standards and regulations for U.S. inspected vessels.

(C) The Chief, Standards Evaluation and Development Division (G–MES), at Headquarters, under the Direction of the Chief, Office of Marine Safety, Security and Environmental Protection and the Director for Standards, coordinates the development of new standards and programs across all technical and operational areas of marine safety, security, and environmental protection; provides comprehensive analytical support for all standards assessment and development efforts; and coordinates development of measures of effectiveness for assessing regulatory programs and consensus standards.

(ii) The Director for Field Activities (G–MO), under the general direction and supervision of the Chief, Office of Marine Safety, Security and Environmental Protection, acts as Program Manager for the Marine Safety, Security and the Marine Environmental Protection Programs; directs, coordinates, and integrates the Coast Guard's marine safety and environmental protection compliance programs, contingency planning, response operations, and investigations programs; establishes and coordinates field implementation policies and priorities for all marine safety commands and units; and serves as the

focal point for field support and technical guidance.

(A) The Chief, Compliance Division (G–MCO), at Headquarters, under the direction of the Chief, Office of Marine Safety, Security and Environmental Protection and the Director for Field Activities, administers and balances all marine safety and environmental protection compliance programs, including direction of Coast Guard activities and oversight of third parties and industry programs; develops, publishes and maintains program policies for vessel compliance, interprets standards and regulations, and provides field guidance for execution and enforcement; administers the marine inspection program and foreign vessel boarding program for the enforcement of commercial vessel material and operational safety standards; and supervises the administration of licensing and documenting of merchant personnel, the issuance of certificates of registry to merchant marine staff officers, and the manning of U.S. vessels.

(B) The Chief, Response Division (G–MRO), at Headquarters, under the Direction of the Chief, Office of Marine Safety, Security and Environmental Protection and the Director for Field Activities, coordinates and integrates field planning, preparedness, and response operations for pollution incidents, natural disasters, marine accidents, terrorism, and other threats to public safety, the marine environment, or marine transportation and commerce; develops, publishes, and maintains program policies for preparedness and response, interprets laws and regulations, and provides field guidance for execution; provides guidance regarding emergency authorities of the Captain of the Port (COTP); and administers Office programs for ports and waterway management, bringing compliance and response efforts with an active presence in the marine environment.

(C) The Chief, Investigations and Analyses Division (G–MAO), at Headquarters, under the direction of the Chief, Office of Marine Safety, Security and Environmental Protection and the Director for Field Activities, reviews investigations of marine casualties; reviews records of proceedings to suspend and revoke licenses, certificates, and documents held by maritime personnel; and compiles, maintains, reviews, and evaluates statistics obtained from marine casualty investigations.

(iii) The Director for Resource Management (G–MR), under the general direction and supervision of the Chief, Office of Marine Safety, Security and Environmental Protection, serves as Facility Manager for the marine safety programs; coordinates and integrates financial, informational, and human resources; plans, acquires, develops, and allocates resources for development and execution of the Coast Guard's marine safety programs; provides the vocal point for all resource issues in support of the Standards and Operations Directorates; and oversees the development and management of the Coast Guard's direct user fee program.

(iv) The Director, Coast Guard National Maritime Center (NMC) under technical control of the Chief, Office of Marine Safety, Security and Environmental Protection, administers operational and administrative control of the Marine Safety Center which conducts reviews and approvals of plans, calculations, and other materials concerning the design, construction, alterations, and repair of commercial vessels to determine conformance with the marine inspection laws, regulations, and implementing directions; administers operational and administrational control over the National Vessel Documentation Center which administers U.S. vessel identification and documentation; oversees and administers the U.S. tonnage measurement program which measures U.S. naval vessels and oversees issuance of international and domestic tonnage certificates; administers merchant mariner licensing and seaman's documentation; and oversees the national pilotage program.

* * * * *

PART 2—VESSEL INSPECTIONS

3. The authority citation for part 2 continues to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 33 U.S.C. 1903; 43 U.S.C. 1333, 1356; 46 U.S.C. 2110, 3306, 3703, 5115, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; subpart 2.45 also issued under the authority of Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. note prec. 1).

§ 2.10–10 [Amended]

4. In § 2.10–10, the word "(G–MP)" is removed and the word "(G–MPR)" is added in its place.

§ 2.10–20 [Amended]

5. In § 2.10–20(e), the word "(G–MP)" is removed and the word "(G–MPR)" is added in its place.

§ 2.10–105 [Amended]

6. In § 2.10–105(b), the word "(G–MP)" is removed and the word "(G–MPR)" is added in its place.

§ 2.10–115 [Amended]

7. In § 2.10–115(b), the word "(G–MP)" is removed and the word "(G–MPR)" is added in its place.

§ 2.45–20 [Amended]

8. In § 2.45–20(a), the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

§ 2.75–1 [Amended]

9. In § 2.75–1, in paragraph (d), the word "(G–MVI)" is removed and the word "(G–MMS)" is added in its place; and in paragraph (f), the words "a Coast Guard pamphlet CG–190" are removed and the words "COMDTINST M16714.3 (Series)" are added in their place.

§ 2.75–10 [Amended]

10. In § 2.75–10(b), the word "(G–MVI)" is removed and the word "(G–MMS)" is added in its place.

§ 2.75–15 [Amended]

11. In § 2.75–15(a), the word "(G–MVI)" is removed and the word "(G–MMS)" is added in its place.

12. In § 2.75–17, paragraph (c)(2) is revised and in paragraph (d)(1), the word "(G–MVI)" is removed and the word "(G–MMS)" is added in its place, to read as follows:

§ 2.75–17 General policy regarding acceptance and use of industry specifications, standards, and codes.

* * * * *

(c) * * *

(2) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269.

* * * * *

PART 5—MARINE INVESTIGATION REGULATIONS—PERSONNEL ACTION

13. The authority citation for part 5 continues to read as follows:

Authority: 46 U.S.C. 2103, 7101, 7301, 7701; 49 CFR 1.46.

§ 5.703 [Amended]

14. In § 5.703(c), the word "(G–MMI)" is removed and the word "(G–MAO)" is added in its place.

PART 6—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

15. The authority citation for part 6 continues to read as follows:

Authority: Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. note prec. 1); 49 CFR 1.46.

§ 6.06 [Amended]

16. In § 6.06, in paragraphs (b) and (d), the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

PART 10—LICENSING OF MARITIME PERSONNEL

17. The authority citation for part 10 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 7101, 7106, 7107; 49 CFR 1.45, 1.46; Section 10.107 also issued under the authority of 44 U.S.C. 3507.

§ 10.112 [Amended]

18. In § 10.112(b), the word "(G–MP)" is removed and the word "(G–MPR)" is added in its place.

§ 10.302 [Amended]

19. § 10.302(a), the words "Commandant (G–MVP) U.S. Coast Guard, Washington, DC 20593–0001," are removed and the words "Director, National Maritime Center, NMC–4B, 4200 Wilson Boulevard, Suite 510, Arlington, VA 22203–1804" are added in their place.

§ 10.303 [Amended]

20. In § 10.303(e), the words "Commandant (G–MVP), U.S. Coast Guard" are removed and the words "Director, National Maritime Center, NMC–4B" are added in their place.

§ 10.304 [Amended]

21. In § 10.304, in paragraph (a), the words "Commandant (G–MVP)" are removed and the words "Director, National Maritime Center, NMC–4B" are added in their place; and in paragraph (d), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 10.307 [Amended]

22. In § 10.307, the words "Commandant (G–MVP) U.S. Coast Guard, 2100 Second St., Washington, DC 20593–0001," are removed and the words "Director, National Maritime Center, NMC–4B, 4200 Wilson Boulevard, Suite 510, Arlington, VA 22203–1804" are added in their place; and the words "(202) 267–0224" are removed and the words "(703) 235–1300" are added in their place.

§ 10.464 [Amended]

23. In § 10.464(d)(2), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 10.470 [Amended]

24. In § 10.470, in paragraphs (b)(1)(ii), (d)(1)(ii), and (h)(1)(ii), the words "Commandant (G–MVP)" are removed and the words "Director, National Maritime Center" are added in their place.

§ 10.472 [Amended]

25. In § 10.472(a)(1)(ii), the words "Commandant (G–MVP)" are removed and the words "Director, National Maritime Center" are added in their place.

§ 10.474 [Amended]

26. In § 10.474(a)(1)(ii), the words "Commandant (G–MVP)" are removed and the words "Director, National Maritime Center" are added in their place.

§ 10.516 [Amended]

27. In § 10.516(a)(6), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in their place.

§ 10.544 [Amended]

28. In § 10.544(a)(3), the words "Commandant (G–MVP)" are removed and the words "Director, National Maritime Center" are added in their place.

§ 10.703 [Amended]

29. In § 10.703(c), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

PART 12—CERTIFICATION OF SEAMEN

30. The authority citation for part 12 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302; 49 CFR 1.46.

§ 12.02–3 [Amended]

31. In § 12.02–3(b)(3), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.02–4 [Amended]

32. In § 12.02–4, in paragraphs (a) and (b), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.02–13 [Amended]

33. In § 12.02–13(b), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.02–14 [Amended]

34. In § 12.02–14(c), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.02–21 [Amended]

35. In § 12.02–21(b), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.02–24 [Amended]

36. In § 12.02–24, the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.05–7 [Amended]

37. In § 12.05–7, in the introductory text, in paragraph (b), and in paragraph (b)(2), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.10–3 [Amended]

38. In § 12.10–3, in paragraphs (a)(2), (a)(5) and (a)(6), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.15–7 [Amended]

39. In § 12.15–7(b), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.15–13 [Amended]

40. In § 12.15–13(a)(4), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.15–15 [Amended]

41. In § 12.15–15(a)(4), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.25–35 [Amended]

42. In § 12.25–35(a), the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

§ 12.25–40 [Amended]

43. In § 12.25–40, the word "Commandant" is removed and the words "Director, National Maritime Center" are added in its place.

PART 14—SHIPMENT AND DISCHARGE OF SEAMEN

44. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 552; 46 U.S.C. 2103, 2113, 3306, 8105, 10104; 49 CFR 1.46.

§ 14.01–3 [Amended]

45. In § 14.01–3, the words "Commandant (G–MVP–1/TP12), U.S. Coast Guard, Washington, DC 20593" are removed and the words "Director, National Maritime Center (NMC)" are added in their place.

§ 14.20–15 [Amended]

46. In § 14.20–15(d), the words "Commandant (G–MVP–1/12), U.S. Coast Guard, Washington, DC 20593"

are removed and the words "Director, National Maritime Center (NMC)" are added in their place.

PART 16—CHEMICAL TESTING

47. The authority citation for part 16 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 7101, and 7701; 49 CFR 1.46.

§ 16.205 [Amended]

48. In § 16.205(g), the word "(G–MNI)" is removed and the word "(G–MAO)" is added in its place.

§ 16.500 [Amended]

49. In § 16.500, in paragraphs (a) and (c), the word "(G–MNI)" is removed and the word "(G–MAO)" is added in its place.

PART 25—REQUIREMENTS

50. The authority citation for part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b), 46 U.S.C. 3306, and 4302; 49 CFR 1.46.

§ 25.01–3 [Amended]

51. In § 25.01–3, in paragraph (a), the words "Merchant Vessel Inspection and Documentation Division (G–MVI)" are removed and the words "Compliance Division (G–MMS)" are added in their place; and in paragraph (b) under the entry for National Fire Protection Association (NFPA), the words "Batterymarch Park, Quincy, MA 02260" are removed and the words "1 Batterymarch Park, Quincy, MA 02269" are added in their place.

§ 25.45–1 [Amended]

52. In § 25.45–1(a), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§ 25.45–2 [Amended]

53. In § 25.45–2(a), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

54. The authority citation for part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4506, 6104, 10603; 49 U.S.C. App. 1804; 49 CFR 1.46.

§ 28.40 [Amended]

55. In § 28.40, in paragraph (a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place; and in paragraph (b) under the entry for National Fire Protection Association (NFPA), the words "60 Batterymarch Park," are removed and the words "1 Batterymarch Park," are added in their place.

§ 28.575 [Amended]

56. In § 28.575, in Table 28.575 the entry "0.65" in column "Y" is removed and the entry "0.97" is added in its place; and the editorial note immediately following Figure 28.575 is removed.

PART 30—GENERAL PROVISIONS

57. The authority citation for part 30 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; 49 U.S.C. 5103; 49 CFR 1.46; Section 30.01–5 also issued under the authority of Sect. 4109, Pub. L. 101–380, 104 Stat. 515.

§ 30.30–5 [Amended]

58. In § 30.30–5(a), the words "Commandant (G–MVP/14)" are removed and the words "Commandant (G–MCO)" are added in their place.

§ 30.30–7 [Amended]

59. In § 30.30–7, the words "room 1400" are removed and the words "room 1104" are added in their place; and the number "(202) 426–1500" is removed and the number "(202) 267–2978" are added in their place.

PART 31—INSPECTION AND CERTIFICATION

60. The authority citation for part 31 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 5115, 8105, 9101, 9102; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 31.10–1 [Amended]

61. In § 31.10–1(b), the words "45 Eisenhower Drive, Paramus, NJ 07653–0910" are removed and the words "Two World Trade Center, 106th Floor, New York, NY 10048" are added in their place.

§ 31.10–21 [Amended]

62. In § 31.10.–21, in paragraphs (e)(1), (e)(3), and (g), the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

§ 31.10–33 [Amended]

63. In § 31.10–33, in paragraphs (a)(1) and (a)(2), the words "One World Trade Center, suite 2757, New York, N.Y. 10048" are removed and the words "30 Vesey Street, New York, NY 10007–2914" are added in their place.

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

64. The authority citation for part 32 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Subpart 32.59 also issued under the authority of Sect. 4109, Pub. L. 101–380, 104 Stat. 515.

§ 32.01–1 [Amended]

65. In § 32.01–1, in paragraph (a) the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place; and in paragraph (b), under the entry for American Bureau of Shipping (ABS), the words "45 Eisenhower Drive, Paramus, NJ 07652" are removed and the words "Two World Trade Center, 106th Floor, New York, NY 10048" are added in their place.

§ 32.53–3 [Amended]

66. In § 32.53–3(b), the word "(G–MTH)" is removed and the word "(G–MOS)" is added in its place.

PART 33—LIFESAVING EQUIPMENT

67. The authority citation for part 33 continues to read as follows:

Authority: 46 U.S.C. 3102, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 33.01–3 [Amended]

68. In § 33.01–3(a), the words "Marine Technical and Hazardous Materials Division" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 34—FIREFIGHTING EQUIPMENT

69. The authority citation for part 34 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 34.01–15 [Amended]

70. In § 34.01–15(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 35—OPERATIONS

71. The authority citation for part 35 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 6101, 9101, 9102; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–

1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 35.01–1 [Amended]

72. In § 35.01–1(a), the words "60 Batterymarch Street, Boston, MA 02110" are removed and the words "1 Batterymarch Park, Quincy, MA 02269" are added in their place.

PART 39—VAPOR CONTROL SYSTEMS

73. The authority citation for part 39 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. 3306, 3703, 3715(b); 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 39.10–5 [Amended]

74. In § 39.10–5, in paragraph (a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Operating and Environmental Standards Division (G–MOS)" are added in their place; and, in paragraph (b), under the entry for National Fire Protection Association (NFPA), the number "1" is added immediately preceding the words "Batterymarch Park,".

§§ 39.10–1, 39.10–9, 39.20–1, 39.20–9, 39.40–1 [Amended]

75. In addition to the amendments set forth above, in 46 FR part 39 removed the word "(G–MTH)" and add, in its place, the word "(G–MOS)" in the following places:

(a) Section 39.10–1(b);
(b) Section 39.10–9;
(c) Section 39.20–1(a)(1);
(d) Section 39.20–9(d); and
(e) Section 39.40–1 (b), (c), and (e).

PART 50—GENERAL PROVISIONS

76. The authority citation for part 50 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.45, 1.46; Section 50.01–20 also issued under the authority of 44 U.S.C. 3507.

§ 50.20–5 [Amended]

77. In § 50.20–5(c), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§ 50.25–1 [Amended]

78. In § 50.25–1(e), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

PART 52—POWER BOILERS

79. The authority citation for part 52 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 11234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 52.01–1 [Amended]

80. In § 52.01–1(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 53—HEATING BOILERS

81. The authority citation for part 53 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp. p. 277; 49 CFR 1.46.

§ 53.01–1 [Amended]

82. In § 53.01–1(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 54—PRESSURE VESSELS

83. The authority citation for part 54 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 54.01–1 [Amended]

84. In § 54.01–1(a), the words "Marine Technical and Hazardous Materials (G–MTH)" are removed and the words "Design and Engineering Standards (G–MMS)" are added in their place.

§§ 54.05–30 and 54.15–25 [Amended]

85. In addition to the amendment set forth above, in 46 CFR part 54 remove the word "(G–MTH)" and add, in its place, the word "(G–MMS)" in the following places:

(a) Section 54.05–30(b) and (c); and
(b) Section 54.15–25(c–1).

PART 56—PIPING SYSTEMS AND APPURTENANCES

86. The authority citation for part 56 continues to read as follows:

Authority: 33 U.S.C. 1321(j), 1509; 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 49 CFR 1.46.

§ 56.20–15 [Amended]

87. In § 56.20–15(c)(3), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§ 56.60–25 [Amended]

88. In § 56.60–25, in paragraphs (a)(10) and (a)(11), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

PART 57—WELDING AND BRAZING

89. The authority citation for part 57 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 57.201–1 [Amended]

90. In § 57.02–1(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

91. The authority citation for part 58 continues to read as follows:

Authority: 42 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 58.03–1 [Amended]

92. In § 58.03–01, in paragraph (a) remove the words "Marine Technical and Hazardous Materials Division (G–MTH)" and insert the words "Design and Engineering Standards Division (G–MMS)" in their place; and, in paragraph (b) under the entry for National Fire Protection Association (NFPA), add the "1" immediately preceding the words "Batterymarch Park,".

PART 59—REPAIRS TO BOILERS, PRESSURE VESSELS AND APPURTENANCES

93. The authority citation for part 59 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 227; 49 CFR 1.46.

§ 59.01–2 [Amended]

94. In § 59.01–2(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 61—PERIODIC TESTS AND INSPECTIONS

95. The authority citation for part 61 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 61.20–17 [Amended]

96. In § 61.20–17(e)(2), the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

§ 61.20–21 [Amended]

97. In § 61.20–21, the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

§ 61.40–10 [Amended]

98. In § 61.40–10(b), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

PART 62—VITAL SYSTEM AUTOMATION

99. The authority citation for part 62 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 62.05–1 [Amended]

100. In § 62.05–1(a), the word "(G–MTH–2/12), Room 1218," is removed and the words "(G–MMS)" is added in its place.

§ 62.35–40 [Amended]

101. In § 62.35–40(b), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

PART 63—AUTOMATIC AUXILIARY BOILERS

102. The authority citation for part 63 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 63.05–1 [Amended]

103. In § 63.05–1(a), the words "Marine Technical and Hazardous Materials Division (G–MTH–2)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 69—MEASUREMENT OF VESSELS

104. The authority citation for part 69 continues to read as follows:

Authority: 46 U.S.C. 14102; 14103; 49 CFR 1.46. Section 69.29 issued under 44 U.S.C. 3507; 49 CFR 1.45.

§ 69.9 [Amended]

105. In § 69.9 in the definition of Commandant, the word "(G–MVI)" is removed and the word "Commanding Officer, Marine Safety Center" is added in its place.

PART 70—GENERAL PROVISIONS

106. The authority citation for part 70 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804, E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.45, 1.46; Section 70.01–15 also issued under the authority of 44 U.S.C. 3507.

§ 70.35–5 [Amended]

107. In § 70.35–5(a), the words "45 Eisenhower Drive, Paramus, NJ 07653–0910" are removed and the words "Two World Trade Center, 106th Floor, New York, NY 10048" are added in their place.

PART 71—INSPECTION AND CERTIFICATION

108. The authority citation for part 71 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 71.50–3 [Amended]

109. In § 71.50–3(f), the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

§ 71.60–1 [Amended]

110. In § 71.60–1(a), the words "60 Batterymarch Street, Boston, Mass., 02110" are removed and the words "1 Batterymarch Park, Quincy, MA 02269" are added in their place.

111. In § 71.65–15, paragraph (a)(2) is removed, paragraphs (a)(3) and (a)(4) are redesignated (a)(2) and (a)(3), and newly redesignated paragraph (a)(2) is revised to read as follows:

§ 71.65–15 [Amended]

(a) * * *

(2) The plans may be submitted directly to Commanding Officer, U.S. Coast Guard Marine Safety Center (G–MSC), 400 Seventh St., SW., Washington, DC 20590–0001. In this case, the plans will be returned directly to the submitter, with a copy of the action being forwarded to the interested Officer in Charge, Marine Inspection.

* * * * *

PART 72—CONSTRUCTION AND ARRANGEMENT

112. The authority citation for part 72 continues to read as follows:

Authority: 46 U.S.C. 3306, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 72.05–10 [Amended]

113. In § 72.05–10(p), the words "60 Batterymarch Street, Boston, Mass. 02110" are removed and the words "1 Batterymarch Park, Quincy, MA 02269" are added in their place.

PART 75—LIFESAVING EQUIPMENT

114. The authority citation for part 75 continues to read as follows:

Authority: 46 U.S.C. 3306, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 75.01–3 [Amended]

115. In § 75.01–3(a), the words "Marine Technical and Hazardous Materials Division" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

§ 75.05–1 [Amended]

116. In § 75.05–1(a), the words "CG–190, "Equipment Lists." are removed and the words "COMDTINST M16714.3 (Series)" are added in their place.

PART 76—FIRE PROTECTION EQUIPMENT

117. The authority citation for part 76 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 76.01–2 [Amended]

118. In § 76.01–2(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 77—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

119. The authority citation for part 77 continues to read as follows:

Authority: 46 U.S.C. 3306, 5115; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 77.01–3 [Amended]

120. In § 77.01–3(a), the words "Marine Technical and Hazardous Materials Division" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 78—OPERATIONS

121. The authority citation for part 78 continues to read as follows:

Authority: 33 U.S.C. 1321(j), 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243; 3 CFR 1971–1975 Comp., p. 793, E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 78.05–1 [Amended]

122. In § 78.05–1(c), in the second sentence, the words "3d," and "12th," are removed.

PART 90—GENERAL PROVISIONS

123. The authority citation for part 90 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 90.35–5 [Amended]

124. In § 90.35–5(a), the words "Eisenhower Drive, Paramus, NJ 07653–0910" are removed and the words "Two World Trade Center, 106th Floor, New York, NY 10048" are added in their place.

PART 91—INSPECTION AND CERTIFICATION

125. The authority citation for part 91 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 91.40–3 [Amended]

126. In § 91.40–3, in paragraphs (e)(1), (e)(3), and (g), remove the word "(G–MVI)" and add the word "(G–MCO)" in its place.

§ 91.50–1 [Amended]

127. In § 91.50–1(a), the words "60 Batterymarch Street, Boston, Mass., 02110" are removed and the words "1 Batterymarch Park, Quincy, MA 02269" and added in their place.

PART 92—CONSTRUCTION AND ARRANGEMENT

128. The authority citation for part 92 continues to read as follows:

Authority: 46 U.S.C. 3306, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 92.01–2 [Amended]

129. In § 92.01–2(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 93—STABILITY

130. The authority citation for part 93 continues to read as follows:

Authority: 46 U.S.C. 3306, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 93.20–15 [Amended]

131. In § 93.20–15(b), the words "One World Trade Center, Suite 2757, New York, N.Y. 10048" are removed and the words "30 Vesey Street, New York, NY 10007–2914" are added in their place.

PART 94—LIFESAVING EQUIPMENT

132. The authority citation for part 94 continues to read as follows:

Authority: 46 U.S.C. 3102; 3306; 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 94.01–3 [Amended]

133. in § 94.01–3(a), the words "Marine Technical and Hazardous Materials Division" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 95—FIRE PROTECTION EQUIPMENT

134. The authority citation for part 95 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 95.01–2 [Amended]

135. In § 95.01–2(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 96—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

136. The authority citation for part 96 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 96.01–3 [Amended]

137. In § 96.01–3(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 97—OPERATIONS

138. The authority citation for part 97 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243; 3 CFR, 1971–1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 97.05–1 [Amended]

139. In § 97.05–1(c), in the second sentence, the words "3d," and "12th," are removed.

PART 98—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR CERTAIN DANGEROUS CARGOES IN BULK

140. The authority citation for part 98 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 98.25–90 [Amended]

141. In § 98.25–90(c), the word "(G–MTH)" is removed and the word "(G–MOS)" is added in its place.

§ 98.30–4 [Amended]

142. In § 98.30–4, in paragraph (a)(1) in footnote [1] remove the word "(G–MTH–1)" and add, in its place, the word "(G–MOS)"; and in paragraph (a)(2) remove the word "OHMT" and add the word "OHMS" in its place.

§ 98.30–14 [Amended]

143. In § 98.30–14, in paragraphs (a)(2), (a)(3), (b)(1) and (b)(2) remove the word "(G–MTH)" and add, in its place, the word "(G–MOS)".

PART 107—INSPECTION AND CERTIFICATION

144. The authority citation for part 107 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 5115; 49 CFR 1.45, 1.46; § 107.05 also issued under the authority of 44 U.S.C. 3507.

§ 107.117 [Amended]

145. In § 107.117, in paragraph (a) the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place; and in paragraph (b), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§ 107.265 [Amended]

146. In § 107.265(a)(2), the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

§ 107.267 [Amended]

147. In § 107.267, in paragraphs (a)(2) and (b), the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

§ 107.413 [Amended]

148. In § 107.413, in paragraphs (b), (c) and (d) the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

PART 108—DESIGN AND EQUIPMENT

149. The authority citation for part 108 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3102, 3306, 5115; 49 CFR 1.46.

§ 108.101 [Amended]

150. In § 108.101(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

§ 108.105 [Amended]

151. In § 108.105(a), the words "Commandant (G–MMT) are removed

and the words "Commanding Officer, Marine Safety Center" are added in their place.

§ 108.109 [Amended]

152. In § 108.109(a), the words "Commandant (G–MMT)" are removed and the words "Commanding Officer, Marine Safety Center" are added in their place.

§ 108.201 [Amended]

153. In § 108.201(a), the word "(G–MTH)" is removed and the word "(G–MOS)" is added in its place.

§ 108.508 [Amended]

154. In paragraphs (a)(1), (a)(2) and (a)(3) of § 108.508(a), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

PART 110—GENERAL PROVISIONS

155. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 4104; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.45, 4.46; § 110.01–2 also issued under the authority of 44 U.S.C. 3507.

§ 110.10–1 [Amended]

156. In 110.10–1(a), remove the words "Merchant Marine Safety (G–MTH)" and add, in their place, the words "Marine Safety, Security and Environmental Protection (G–MMS)".

§§ 110.20–1 and 110.25–3 [Amended]

157. In 46 CFR part 110, remove the word "(G–MTH)" and add, in its place, the word "(G–MMS)" in the following sections:

(a) Section 110.20–1—introductory text; and

(b) Section 110.25–3(a)(3).

PART 147—HAZARDOUS SHIPS' STORES

158. The authority citation for part 147 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

159. Section 147.5 is revised to read as follows:

§ 147.5 Commandant (G–MOS); address.

Commandant (G–MOS) is the Operating and Environmental Standards Division of the Coast Guard Office of Marine Safety, Security and Environmental Protection. The address is Commandant (G–MOS), U.S. Coast Guard Headquarters, Washington, DC 20593–0001, and the telephone number is (202) 267–0214.

§ 147.50 [Amended]

160. In § 147.50(d), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§§ 147.9, 147.40, and 147.60 [Amended]

161. In addition to the amendments set forth above, in 46 CFR part 147 remove the word "(G–MTH)" and add, in its place, the word "(G–MOS)" in the following sections:

(a) Section 147.9(a);

(b) Section 147.40—heading, (a), (b), and (c); and

(c) Section 147.60(c)(2).

PART 148—CARRIAGE OF SOLID HAZARDOUS MATERIALS IN BULK

162. The authority citation for part 148 continues to read as follows:

Authority: 49 U.S.C. App. 1804; 49 CFR 1.46.

§ 148.01–9 [Amended]

163. In § 148.01–9(a), the word "(G–MTH)" is removed and the word "(G–MOS)" is added in its place.

§ 148.01–11 [Amended]

164. In § 148.01–11(b)(2), the word "(G–MTH)" is removed and the word "(G–MOS)" is added in its place.

PART 150—COMPATIBILITY OF CARGOES

165. The authority citation for part 150 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.45, 1.46. Section 150.105 issued under 44 U.S.C. 3507; 49 CFR 1.45.

§ 150.210 [Amended]

166. In § 150.210(b) under the entry for National Fire Protection Association (NFPA), the words "Batterymarch Park," are removed and the words "1 Batterymarch Park," are added in their place. 150.140, 150.150, and 150.160 [Amended]

167. In addition to the amendment set forth above, in 46 CFR part 150 remove the word "(G–MTH)" and add, in its place, the word "(G–MOS)" in the following sections:

(a) Section 150.140;

(b) Section 150.150—introductory text; and

(c) Section 150.160(a).

PART 151—BARGES CARRYING BULK LIQUID HAZARDOUS MATERIAL CARGOES

168. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3703; 49 CFR 1.46.1.

§§ 151.50–20, 151.50–22, 151.50–23, 151.50–36, 151.50–50, 151.50–75, 151.50–76, 151.50–77, 151.50–80, and 151.50–84 [Amended]

169. In 46 CFR part 151 remove the word "(G–MTH)" and add, in its place, the word "(G–MOS)" in the following sections:

(a) Section 151.50–20(i);

(b) Section 151.50–22(d);

(c) Section 151.50–23(e);

(d) Section 151.50–36(b);

(e) Section 151.50–50(n);

(f) Section 151.50–75;

(g) Section 151.50–76(b), (c), and (g);

(h) Section 151.50–77(a);

(i) Section 151.50–80(c); and

(j) Section 151.50–84(e)(2).

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

170. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703, 9101; 49 U.S.C. App. 1804; 33 U.S.C. 1903; 49 CFR 1.46.

§ 153.809 [Amended]

171. In § 153.809, in paragraphs (a), (b)(1), (c), and (d), remove the words "Commandant (G–MTH)" and add, in their place, the words "Commanding Officer, Marine Safety Center (G–MSC)".

§ 153.902 [Amended]

172. In § 153.902 remove the words "Commandant (G–MTH)" and add, in their place, the words "Commanding Officer, Marine Safety Center (G–MSC)".

§§ 153.7, 153.10, 153.15, 153.16, 153.219, 153.250, 153.336, 153.353, 153.365, 153.407, 153.460, 153.490, 153.491, 153.525, 153.530, 153.556, 153.557, 153.558, 153.921, 153.935a, 153.1010, 153.1011, 153.1025, 153.1052, 153.1101, 153.1119, 153.1502, and 153.1608 [Amended]

173. In 46 CFR part 153 remove the word "(G–MTH)" and add, in its place, the word "(G–MOS)" in the following sections:

(a) Section 153.7(b)(4), (b)(4)(ii), (c)(3), (c)(4), (c)(5), and (c)(6);

(b) Section 153.10(a)(1), (a)(3), and (b);

(c) Section 153.15(b)(4);

(d) Section 153.16(a);

(e) Section 153.219(b)(3);

(f) Section 153.250;

(g) Section 153.336(a)(3) and (b)(2);

(h) Section 153.353(c);

(i) Section 153.365(a)(3);

(j) Section 153.407(b);

(k) Section 153.460(b) and (c);

(l) Section 153.490(b)(1);

(m) Section 153.491(b)(3);

(n) Section 153.525(d)(3);

(o) Section 153.530(c) introductory text, (c)(1), (c)(2), and (o);

(p) Section 153.556(a);
(q) Section 153.557(a)(3) and (b);
(r) Section 153.558(b);
(s) Section 153.921;
(t) Section 153.935a(a)(2);
(u) Section 153.1010(b)(4);
(v) Section 153.1011(a)(2) and (a)(3);
(w) Section 153.1025(c);
(x) Section 153.1052;
(y) Section 153.1101(c);
(z) Section 153.1119(c)(1), (c)(2)(viii), (c)(3), and (e);
(aa) Section 153.1502(a); and
(bb) Section 153.1608—Note.

PART 154—SAFETY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES

174. The authority citation for part 154 continues to read as follows:

Authority: 46 U.S.C. 3703, 9101; 49 CFR 1.46.

§ 154.22 [Amended]

175. In § 154.22, in paragraphs (a)(10) and (b), the words "Commandant (G–MTH)" are removed and the words "Commanding Officer, Marine Safety Center (G–MSC)" are added in their place.

§ 154.151 [Amended]

176. In § 154.151, in paragraphs (a), (b)(1) and (c), the words "Commandant (G–MTH)" are removed and the words "Commanding Officer, Marine Safety Center (G–MSC)" are added in their place.

§ 154.1803 [Amended]

177. In § 154.1803(b), the words "Commandant (G–MTH)" are removed and the words "Commanding Officer, Marine Safety Center (G–MSC)" are added in their place.

§§ 154.1, 154.12, 154.30, 154.32, 154.34, 154.170, 154.172, 154.315, 154.350, 154.356, 154.405, 154.406, 154.409, 154.410, 154.411, 154.418, 154.419, 154.425, 154.426, 154.428, 154.430, 154.431, 154.435, 154.436, 154.438, 154.440, 154.447, 154.448, 154.449, 154.453, 154.459, 154.467, 154.503, 154.516, 154.519, 154.520, 154.522, 154.524, 154.546, 154.610, 154.620, 154.630, 154.650, 154.655, 154.703, 154.709, 154.805, 154.904, 154.908, 154.912, 154.1005, 154.1135, 154.1335, 154.1340, 154.1345, 154.1725, 154.1735, 154.1755, and 154.1860 [Amended]

178. In addition to the amendments set forth above, in 46 CFR part 154 remove the word "(G–MTH)" and add, in its place, the word "(G–MOS)" in the following sections:
(a) Section 154.1(a);
(b) Section 154.12(c)(4) and (d)(4);
(c) Section 154.30(a), (b), and (c);
(d) Section 154.32(a) and (b);
(e) Section 154.34;
(f) Section 154.170(b)(1) and (b)(2);
(g) Section 154.172(c);
(h) Section 154.315(b)(2);
(i) Section 154.350(a);
(j) Section 154.356(c);
(k) Section 154.405(c);
(l) Section 154.406(c);
(m) Section 154.409(a);
(n) Section 154.410(a) and (b);
(o) Section 154.411—in introductory text;
(p) Section 154.418;
(q) Section 154.419;
(r) Section 154.425;
(s) Section 154.426;
(t) Section 154.428;
(u) Section 154.430(b);
(v) Section 154.431(b);
(w) Section 154.435;
(x) Section 154.436;
(y) Section 154.438(b);
(z) Section 154.440(a)(2) and (b);
(aa) Section 154.447(b);
(bb) Section 154.448—introductory text;
(cc) Section 154.449—introductory text;
(dd) Section 154.453;
(ee) Section 154.459(b) and (c);
(ff) Section 154.467—introductory text;
(gg) Section 154.503(e);
(hh) Section 154.516—introductory text;
(ii) Section 154.519(a)(2);
(jj) Section 154.520—introductory text;
(kk) Section 154.522(a)—introductory text;
(ll) Section 154.524(e);
(mm) Section 154.546(a);
(nn) Section 154.610(c) and (f);
(oo) Section 154.620(b);
(pp) Section 154.630(a) and (c);
(qq) Section 154.650(d) and (e);
(rr) Section 154.655(b);
(ss) Section 154.703(b)(3) and (d)(2);
(tt) Section 154.709(b);
(uu) Section 154.805(e);
(vv) Section 154.904(a);
(ww) Section 154.908(b);
(xx) Section 154.912;
(yy) Section 154.1005(a) and (b);
(zz) Section 154.1135(a)(3);
(aaa) Section 154.1335(b)(1) and (c)(1);
(bbb) Section 154.1340(c)(1) and (d);
(ccc) Section 154.1345(b)(2)(i);
(ddd) Section 154.1725(a)(2), (a)(4) and (b)(1);
(eee) Section 154.1735(a);
(fff) Section 154.1755; and
(ggg) Section 154.1860.

PART 160—LIFESAVING EQUIPMENT

179. The authority citation for part 160 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, and 4302; E.O. 12234, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 160.010–2 [Amended]

180. In § 160.010–2(c), the word "(G–MVI–3)" is removed and the word "(G–MMS–4)" is added in its place; the words "Survival Systems Branch" are removed and the words "Lifesaving and Fire Safety Standards Branch" are added in their place; and the words "Merchant Marine Safety" are removed and the words "Marine Safety, Security and Environmental Protection" are added in their place.

§ 160.010–4 [Amended]

181. In § 160.010–4, in paragraphs (b), (c)(1), (c)(2) and (c)(3) the word "(G–MVI)" is removed and the word "(G–MMS)" is added in its place.

§ 160.010–7 [Amended]

182. In § 160.010–7(a), the word "(G–MVI–3)" is removed and the word "(G–MMS)" is added in its place.

§ 160.076–5 [Amended]

183. In § 160.076–5, in the definition of *Commandant*, the words "Survival Systems Branch" are removed and the words "Lifesaving and Fire Safety Standards Branch" are added in their place and the word "(G–MVI–3/14)" is removed and the word "(G–MMS–4)" is added in its place.

§ 160.077–2 [Amended]

184. In § 160.077–2(a), the words "Survival Systems Branch" are removed and the words "Lifesaving and Fire Safety Standards Branch" are added in their place and the word "(G–MVI–3/14)" is removed and the word "(G–MMS–4)" is added in its place.

185. Section 160.077–21 is amended by adding a note immediately following paragraph (c)(4)(i) to read as follows:

§ 160.077–21 Approval Testing—Type I and Commercial Hybrid PFD.

* * * * *

(c) * * *
(4) * * *
(i) * * *

Note If the freeboard of a test subject is close to zero, caution must be taken to prevent the subject from inhaling water. The subject may use lightweight breathing aids to avoid inhaling water.

* * * * *

§ 160.176–3 [Amended]

186. In § 160.176–3(a), the words "Survival Systems Branch" are removed and the words "Lifesaving and Fire Safety Standards Branch" are added in their place; the words "Merchant Marine Safety" are removed and the words "Marine Safety, Security and Environmental Protection" are added in their place; and the word "(G–MVI–

3/14)" is removed and the word "(G–MMS–4)" is added in its place.

§§ 160.001–1, 160.002–1, 160.021–9, 160.022–1, 160.022–9, 160.023–9, 160.024–9, 160.028–9, 160.031–9, 160.033–1, 160.034–1, 160.035–8, 160.036–9, 160.037–1, 160.037–9, 160.040–9, 160.047–1, 160.052–1, 160.054–1, 160.055–1, 160.057–1, 160.057–9, 160.060–1, 160.066–18, 160.072–09, and 160.073–5 [Amended]

187. In addition to the amendments set forth above, in 46 CFR part 160 remove the word "(G–MVI)" and add, in its place, the word "(G–MMS)" in the following sections:

(a) Section 160.001–1(d);
(b) Section 160.002–1(c);
(c) Section 160.021–9(b);
(d) Section 160.022–1(c);
(e) Section 160.022–9(b);
(f) Section 160.023–9(b);
(g) Section 160.024–9(b);
(h) Section 160.028–9(b);
(i) Section 160.031–9(b);
(j) Section 160.033–1(b);
(k) Section 160.034–1(b);
(l) Section 160.035–8(b);
(m) Section 160.036–9(b);
(n) Section 160.037–1(c);
(o) Section 160.037–9(b);
(p) Section 160.040–9(b);
(q) Section 160.047–1(c)(1);
(r) Section 160.052–1(c)(1);
(s) Section 160.054–1(b);
(t) Section 160.055–1(c);
(u) Section 160.057–1(c);
(v) Section 160.057–9(b);
(w) Section 160.060–(c)(1);
(x) Section 160.066–18(b);
(y) Section 160.072–09(a); and
(z) Section 160.073–5(b).

§§ 160.010–1, 160.076–11, 160.077–5, 160.171–3, 160.174–3, and 160.176–4 [Amended]

188. In addition to the amendments set forth above, in 46 CFR part 160 remove the words "Survival Systems Branch (G–MVI–3)" and add, in its place, the words "Lifesaving and Fire Safety Standards Branch (G–MMS–4)" in the following sections:

(a) Section 160.010–1(a);
(b) Section 160.076–11(a);
(c) Section 160.077–5(a);
(d) Section 160.171–3(a);
(e) Section 160.174–3(a); and
(f) Section 160.176–4(a).

PART 161—ELECTRICAL EQUIPMENT

189. The authority citation for part 161 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., 277; 49 CFR 1.46.

§ 161.002–1 [Amended]

190. In § 161.002–1(c), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§ 161.004–1 [Amended]

191. In § 161.004–1(d), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§ 161.004–7 [Amended]

192. In § 161.004–7(a), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§ 161.010–1 [Amended]

193. In § 161.101–1(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

§ 161.010–4 [Amended]

194. In § 161.010–4, in paragraphs (a) and (b) the words "Commandant (G–MTH–2)"and "Commandant (G–MTH)" are removed and the words "Commandant (G–MMS)" are added in their place.

§ 161.011–10 [Amended]

195. In § 161.011–10(c), the word "(G–MVI)" is removed and the word "(G–MMS)" is added in their place.

§ 161.012–5 [Amended]

196. In § 161.012–5(a), the word "G–MVI)" is removed and the word "(G–MMS)" is added in its place.

§ 161.013–11 [Amended]

197. In § 161.013–11(c)(1), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§ 161.013–17 [Amended]

198. In § 161.013–17(a), the word "(G–MTH)" is removed and word "(G–MMS)" is added in its place.

PART 162—ENGINEERING EQUIPMENT

199. The authority citation for part 162 continues to read as follows:

Authority: 33 U.S.C. 1321(j) 1903; 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 162.017–3 [Amended]

200. In § 162.017–3(b), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§ 162.017–6 [Amended]

201. In § 162.017–6, in paragraphs (a) and (c), the "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§ 162.027–6 [Amended]

202. In § 162.027–6(a), the word "(G–MVI)" is removed and the word "(G–MMS)" is added in its place.

§ 162.050–7 [Amended]

203. In § 162.050–7, in paragraphs (a), (f) and (g) the word "(G–MVI)" is removed and the word "(G–MMS)" is added in its place.

§ 162.050–15 [Amended]

204. In § 162.050–15, in paragraphs (a), (e) and (h) the word "(G–MVI)" is removed and the word "(G–MMS)" is added in its place.

PART 164—MATERIALS

205. The authority citation for part 164 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 164.012–1 [Amended]

206. In § 164.012–1(b), the words "60 Batterymarch Street, Boston, Mass., 02110" are removed and the words "1 Batterymarch Park, Quincy, MA 02269" are added in their place.

§ 164.019–3 [Amended]

207. In § 164.019–3, the word "(G–MVI–3/14)" is removed and the word "(G–MMS)" is added in its place; and the word "(G–MVI–3)" is removed and the word "(G–MMS)" is added in its place.

§ 164.023–3 [Amended]

208. In § 164.023–3, the words "Survival Systems Branch (G–MVI–3)" is removed and the words "Lifesaving and Fire Safety Standards Branch (G–MMS–4)" are added in their place.

§§ 1604.007–1, 164.008–1, 164.009–9, 164.009–11, 164.012–1, and 164.018–7 [Amended]

209. In addition to the amendments set forth above, in 46 CFR Part 164 remove the word "(G–MVI)" and add, in its place, the word "(G–MMS)" in the following sections:

(a) Section 164.007–1(c)(1);
(b) Section 164.008–1(c)(1);
(c) Section 164.009–9 (a) and (d);
(d) Section 164.009–11(a);
(e) Section 164.012–1(b); and
(f) Section 164.018–7(a).

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

210. The authority citation for part 167 continues to read as follows:

Authority: 46 U.S.C. 3306, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 167.15–30 [Amended]

211. In § 167.15–30(e), the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

§ 167.20–35 [Amended]

212. In § 167.20–35, the words "§ 55.10–25(n) of Subchapter F (Marine Engineering) of this chapter" are removed and the words "33 CFR 155.330 through 155.380" are added in their place.

§ 167.30–10 [Amended]

213. In § 167.30–10(a), the words "60 Batterymarch Street, Boston, Mass.," are removed and the words "1 Batterymarch Park, Quincy, MA 02269" are added in their place.

Part 169—SAILING SCHOOL VESSELS

214. The authority citation for part 169 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 5115, 6101; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.45, 1.46; § 169.117 also issued under the authority of 44 U.S.C. 3507.

§ 169.115 [Amended]

215. In § 169.115(c)(3), the number "1" is added immediately preceding the words "Batterymarch Park,".

§ 169.229 [Amended]

216. In § 169.229(e), the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

§ 169.529 [Amended]

217. In § 169.529(j), the number "161.008" is removed and the number "94.20–15(j)" is added in its place.

§ 169.551 [Amended]

218. In § 169.551(b), the number "160.071" is removed and the number "160.171" is added in its place.

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

219. The authority citation for part 170 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 170.015 [Amended]

220. In § 170.015(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 174—SPECIAL RULES PERTAINING TO SPECIFIC VESSEL TYPES

221. The authority citation for part 174 continues to read as follows:

Authority: 42 U.S.C. 9118, 9119, 9153; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 174.007 [Amended]

222. In § 174.007(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

§ 174.335 [Amended]

223. In § 174.335, in paragraphs (a) and (b) the number "163.001" is removed and the number "170.270" is added in its place.

PART 175—GENERAL PROVISIONS

224. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 5115, 8105; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 175.01–3 also issued under the authority of 44 U.S.C. 3507.

§ 175.10–2 [Amended]

225. In § 175.10–2(b), the word "CG–190" is removed and the words "COMDTINST M16714.3 (Series)" are added in its place.

§ 175.25–1 [Amended]

226. In § 175.25–1(a), remove the number "178".

§ 175.27–5 [Amended]

227. In § 175.27–5(a), the words "420 Lexington Avenue, New York, NY 10017" are removed and the words "3069 Solomons Island Road, Edgewater, MD 21037" are added in their place.

PART 180—LIFESAVING EQUIPMENT

228. The authority citation for part 180 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp. p. 277; 49 CFR 1.46.

§ 180.05–1 [Amended]

229. In § 180.05–1(a), the word "CG–190" is removed and the words "COMDTINST M16714.3 (Series)" are added in its place.

§ 180.10–5 [Amended]

230. In § 180.10–5(b), removed the words "After July 1, 1968, all" and add, in its place, the word "All".

§ 180.10–15 [Amended]

231. In § 180.10–15(b), remove the words "After July 1, 1968, all" and add, in its place, the word "All".

§ 180.10–20 [Amended]

232. In § 180.10–20(b), remove the words "After July 1, 1968, all" and add, in its place, the word "All".

§ 180.25–20 [Amended]

233. In § 180.25–20(a), remove the words "after June 30, 1980,".

§ 180.25–25 [Amended]

234. In § 180.25–25(a), remove the words "after June 30, 1980,".

PART 181—FIRE PROTECTION EQUIPMENT

235. The authority citation for part 181 continues to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

§ 181.05–1 [Amended]

236. In § 181.05–1(b), the word "CG–190" is removed and the words "COMDTINST M16714.3 (Series)" are added in its place.

§ 181.15–10 [Amended]

237. In § 181.15–10(d), removed the words "after January 1, 1980,".

PART 182—MACHINERY INSTALLATION

238. The authority citation for part 182 continues to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

§ 182.15–40 [Amended]

239. In § 182.15–40(a)(3), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

§ 182.20–40 [Amended]

240. In § 182.20–40(a)(2)(ii), the word "(G–MTH)" is removed and the word "(G–MMS)" is added in its place.

PART 183—ELECTRICAL INSTALLATION

241. The authority citation for part 183 continues to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

§ 183.01–15 [Amended]

242. In § 183.01–15, in paragraph (b)(3), the words "60 Batterymarch Street, Boston 10, Mass." are removed and the words "1 Batterymarch Park, Quincy, MA 02269." are added in their place; in paragraph (b)(4), the words "207 East Ohio Street, Chicago 11, Ill." are removed and the words "12 Laboratory Drive, Research Triangle Park, NC 27709." are added in their place; and in paragraph (b)(5), the words "207 East Ohio Street, Chicago, Ill. 60611." are removed and the words "12 Laboratory Drive, Research Triangle Park, NC 27709." are added in their place.

§ 183.05–45 [Amended]

243. In § 183.05–45(i), the words "60 Batterymarch St., Boston 10, Mass." are removed and the words "1 Batterymarch

Park, Quincy, MA 02269" are added in their place.

PART 184—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

244. The authority citation for part 184 continues to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

§ 184.01–3 [Amended]

245. In § 184.01–3, in paragraph (b), under the entry for American Boat and Yacht Council (ABYC), remove the words "P.O. Box 747, 405 Headquarters Dr., Suite 3, Millersville, MD 21108–0747" and add, in their place, the words "3069 Solomons Island Road, Edgewater, MD 21037" and under the entry for National Fire Protection Association (NFPA), remove the words "60 Batterymarch Park, Quincy, MA 02260" and add, in their place, the words "1 Batterymarch Park, Quincy, MA 02269".

PART 188—GENERAL PROVISIONS

246. The authority citation for part 188 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306, 5115; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 188.35–5 [Amended]

247. In § 188.35–5, in paragraph (a) remove the words "45 Eisenhower Drive, Paramus, NJ 07653–0910" and add, in their place, the words "Two World Trade Center, 106th Floor, New York, NY 10048"; and, in paragraph (b) remove the word "(G–MVI)" and add, in its place, the word "(G–MCO)".

PART 189—INSPECTION AND CERTIFICATION

248. The authority citation for part 189 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 189.40–3 [Amended]

249. In § 189.40–3(e)(1), (e)(3), and (g) the word "(G–MVI)" is removed and the word "(G–MCO)" is added in its place.

§ 189.50–1 [Amended]

250. In § 189.50–1(a), the words "60 Batterymarch Street, Boston, Mass. 02110" are removed and the words "1 Batterymarch Park, Quincy, MA 02269" are added in their place.

§ 189.55–15 [Amended]

251. In § 189.55–15(a)(2), the words "Commandant (G–MTH)" are removed and the words "Commanding Officer, Marine Safety Center (G–MSC)" are added in their place.

PART 190—CONSTRUCTION AND ARRANGEMENT

252. The authority citation for part 190 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 190.01–3 [Amended]

253. In § 190.01–3(a), the words, "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

§ 190.20–10 [Amended]

254. In § 190.20–10(b), the number "43.15–1" is removed and the number "42.13–15" is added in its place.

PART 192—LIVESAVING EQUIPMENT

255. The authority citation for part 192 continues to read as follows:

Authority: 46 U.S.C. 2213, 3306, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 192.41–5 [Amended]

256. In § 192.41–5, in paragraphs (c) and (d), the number "160.071" is removed and the number "160.171" is added in its place.

PART 193—FIRE PROTECTION EQUIPMENT

257. The authority citation for part 193 continues to read as follows:

Authority: 46 U.S.C. 2213, 3102, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 193.01–3 [Amended]

258. In § 193.01–3(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Design and Engineering Standards Division (G–MMS)" are added in their place.

PART 196—OPERATIONS

259. The authority citation for part 196 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306, 5115, 6101; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 196.03–01 [Amended]

260. In § 196.03–1(b), the words "46 U.S.C. 239" are removed and the words "46 U.S.C. 77" are added in their place and the words "part 137" are removed and the words "part 5" are added in their place.

PART 197—GENERAL PROVISIONS

261. The authority citation for part 197 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 6101; 49 CFR 1.46.

§ 197.484 [Amended]

262. In § 197.484(a), the number "146.01–20" is removed and the number "146.30" is added in its place.

§ 197.510 [Amended]

263. In § 197.510(a), the words "Marine Technical and Hazardous Materials Division (G–MTH)" are removed and the words "Operating and Environmental Standards Division (G–MOS)" are added in their place.

Dated: September 25, 1995.

Howard L. Hime,

Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–24176 Filed 9–28–95; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA95–2035]

List of Office of Management and Budget Approved Information Collection Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action revises the Commission's list of Office of Management and Budget approved information collection requirements with expiration dates contained in the Commission's Rules. This action will provide the public with a current list of information collection requirements that have been approved by Office of Management and Budget (OMB) and their associated OMB control numbers with expiration dates in the Commission's Rules.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Dorothy Conway, Office of Managing Director, (202) 418–0217.

SUPPLEMENTARY INFORMATION:

Order

By the Managing Director:

[Adopted: September 26, 1995; Released: September 27, 1995]

1. Section 3507(f) of the Paperwork Reduction Act of 1980, as amended, 44

U.S.C. 3507(f), requires agencies to display a current control number assigned by the Director of the Office of Management and Budget ("OMB") for each agency information collection requirement.

2. Section 0.408 of the Commission's Rules displays the OMB control numbers assigned to the Commission's information collection requirements that have been reviewed and approved by OMB.

3. Authority for this action is contained in Section 4(i) of the Communications Act of 1934 (47 U.S.C. 154(i)), as amended, and Section 0.231(b) of the Commission's Rules. Since this revision is a matter of agency organization procedure or practice, the notice and comment and effective date provisions of the Administrative Procedure Act do not apply. See 5 U.S.C. Section 553(b)(A)(d).

4. Accordingly, *it is ordered, that* Section 0.408 of the Rules is REVISED as set forth in the revised text, effective on the date of publication in the **Federal Register.**

List of Subjects in 47 CFR Part 0

Reporting and recordkeeping requirements.

Federal Communications Commission.

Andrew S. Fishel,

Managing Director.

Rule Change

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as revised; 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 0.408 is revised to read as follows:

§ 0.408 OMB control numbers and expiration dates assigned pursuant to the Paperwork Reduction Act

(a) *Purpose.* This section collects and displays the control numbers and expiration dates for the Commission information collection requirements assigned by the Office of Management and Budget ("OMB") pursuant to the Paperwork Reduction Act of 1980, Public Law 96–511. The Commission intends that this section comply with the requirement that agencies display current control numbers and expiration dates assigned by the Director of OMB for each approved information collection requirement. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to the Records Management Branch, Federal Communications Commission, Washington, DC 20554.

(b) *Display.*

OMB control No.	FCC form number or 47 CFR section or part identifying and describing	OMB expiration date
3060–0003	FCC 610	8/31/96
3060–0004	Sec. 1.1307, 1.1308, 1.311	1/31/96
3060–0009	FCC 316	4/30/96
3060–0010	FCC 323	7/31/98
3060–0012	Parts 21, 23, 25 and FCC 701	3/31/97
3060–0016	FCC 346	4/30/97
3060–0017	FCC 347	4/30/97
3060–0018	FCC 348	12/31/96
3060–0019	FCC 403	10/31/97
3060–0020	FCC 406	2/28/96
3060–0021	FCC 480	12/31/97
3060–0022	FCC 610A	8/31/98
3060–0024	Sec. 76.29	3/31/98
3060–0025	FCC 755	7/31/97
3060–0027	FCC 301	8/31/98
3060–0028	FCC 313	10/31/95
3060–0029	FCC 302–TV	1/31/97
3060–0031	FCC 314	8/31/98
3060–0032	FCC 315	8/31/98
3060–0034	FCC 340	11/30/97
3060–0035	FCC 313–R	3/31/97
3060–0040	FCC 404/404–R	7/31/97
3060–0041	FCC 301–A	3/31/97
3060–0046	FCC 401	10/31/95
3060–0048	FCC 704	3/31/97
3060–0049	FCC 753	5/31/97
3060–0050	FCC 801	1/31/98
3060–0051	FCC 405–B	8/31/97
3060–0053	FCC 703	10/31/96
3060–0054	FCC 820	2/28/96
3060–0055	FCC 327	9/30/96
3060–0056	FCC 730	3/31/97
3060–0057	FCC 731	3/31/96
3060–0059	FCC 740	7/31/97
3060–0061	FCC 325	4/30/96
3060–0062	FCC 330	8/31/98
3060–0064	FCC 402	6/30/98
3060–0065	FCC 422	12/31/95
3060–0066	FCC 330–R	4/30/97
3060–0068	FCC 720	8/31/97
3060–0069	FCC 756	9/30/96
3060–0072	FCC 409	8/31/98

OMB control No.	FCC form number or 47 CFR section or part identifying and describing	OMB expiration date
3060–0073	FCC 808	7/31/97
3060–0075	FCC 345	12/31/96
3060–0076	FCC 395	12/31/96
3060–0079	FCC 610–B	10/31/96
3060–0084	FCC 323–E	4/30/96
3060–0085	FCC 65	6/30/97
3060–0089	FCC 403	6/30/96
3060–0090	FCC 410	11/30/96
3060–0093	FCC 405	3/31/97
3060–0095	FCC 395–A, 395–AS	7/31/96
3060–0096	FCC 506, 506–A	7/31/96
3060–0099	FCC M	6/30/96
3060–0104	FCC 572	6/30/97
3060–0105	FCC 430	2/28/96
3060–0106	Sec. 43.61, FCC 43.61	8/31/96
3060–0107	FCC 405–A	12/31/96
3060–0108	FCC 201	1/31/97
3060–0110	FCC 303–S	12/31/97
3060–0113	FCC 396	12/31/96
3060–0119	Sec. 90.145	2/28/97
3060–0120	FCC 396–A	11/30/96
3060–0126	Sec. 73.1820	7/31/96
3060–0127	FCC 1046	4/30/97
3060–0128	FCC 574	6/30/96
3060–0130	FCC 574B	8/31/96
3060–0132	FCC 1068A	12/31/97
3060–0134	FCC 574–R	3/31/96
3060–0136	FCC 574–T	3/31/96
3060–0139	FCC 854	8/31/96
3060–0141	FCC 402–R	5/31/97
3060–0147	Sec. 64.804	11/30/96
3060–0149	Part 63, Sec. 214, 63.01–63.601	8/30/98
3060–0157	Sec. 73.99	3/31/97
3060–0160	Sec. 73.158	2/31/96
3060–0161	Sec. 73.61	11/30/96
3060–0164	Sec. 25.300	5/31/97
3060–0165	Part 41, Sec. 41.31	11/30/96
3060–0166	Part 42	8/31/96
3060–0168	Sec. 43.43	10/31/96
3060–0169	Sec. 43.51, 43.53	8/31/96
3060–0170	Sec. 73.1207	1/31/96
3060–0171	Sec. 73.1125	2/28/96
3060–0173	Sec. 73.1207	12/31/97
3060–0174	Sec. 73.1212	11/30/95
3060–0175	Sec. 73.1250	11/30/96
3060–0176	Sec. 73.1510	1/31/97
3060–0178	Sec. 73.1560	1/31/97
3060–0179	Sec. 73.1590	8/31/98
3060–0180	Sec. 73.1610	12/31/95
3060–0181	Sec. 73.1615	1/31/97
3060–0182	Sec. 73.1620	12/31/97
3060–0184	Sec. 73.1740	1/31/96
3060–0185	Sec. 73.3613	5/31/98
3060–0187	Sec. 73.3594	12/31/97
3060–0188	Sec. 73.3550	7/31/97
3060–0190	Sec. 73.3544C	12/31/97
3060–0192	Sec. 87.103	11/30/97
3060–0194	Sec. 74.21	1/31/96
3060–0202	Sec. 87.37	12/31/97
3060–0204	Sec. 90.38(B)	11/30/95
3060–0206	Part 21	7/31/97
3060–0207	Sec. 73.961 & 73.932	2/28/97
3060–0208	Sec. 73.1870	12/31/96
3060–0209	Sec. 73.1920	11/30/96
3060–0210	Sec. 73.1930	3/31/98
3060–0211	Sec. 73.1943	5/31/98
3060–0212	Sec. 73.2080	11/30/96
3060–0213	Sec. 73.3525B	7/31/97
3060–0214	Sec. 73.3526	5/31/96
3060–0215	Sec. 73.3527	11/30/96
3060–0216	Sec. 73.3538	11/30/95
3060–0218	Sec. 90.41(b)	12/31/97
3060–0219	Sec. 90.49(b)	11/30/96

OMB control No.	FCC form number or 47 CFR section or part identifying and describing	OMB expiration date
3060–0222	Sec. 97.213	12/31/97
3060–0223	Sec. 90.129(B)	11/30/95
3060–0224	Sec. 90.151	2/28/98
3060–0225	Sec. 90.131(B)	11/30/96
3060–0226	Sec. 90.135(d) & (e)	2/28/98
3060–0228	Sec. 80.59	8/31/98
3060–0233	Part 36	5/31/96
3060–0236	Sec. 74.703	7/31/96
3060–0240	Sec. 74.651	3/31/97
3060–0241	Sec. 74.633	3/31/97
3060–0242	Sec. 74.604	3/31/97
3060–0243	Sec. 74.551	5/31/96
3060–0245	Sec. 74.537	5/31/96
3060–0246	Sec. 74.452	7/31/97
3060–0248	Sec. 74.751	7/31/96
3060–0249	Sec. 74.781	11/30/96
3060–0250	Sec. 74.784	11/30/96
3060–0251	Sec. 74.833	11/30/96
3060–0253	Part 68 Sec. 68.106, 68.108, 68.110	2/28/98
3060–0254	Sec. 74.433	7/31/97
3060–0258	Sec. 90.176	11/30/96
3060–0259	Sec. 90.263	12/31/97
3060–0260	Sec. 90.239(D)	12/31/95
3060–0261	Sec. 90.215	12/31/97
3060–0262	Sec. 90.179	12/31/95
3060–0263	Sec. 90.177	11/30/96
3060–0264	Sec. 80.413	12/31/97
3060–0265	Sec. 80.868	8/31/98
3060–0270	Sec. 90.443	2/28/97
3060–0272	Sec. 94.31	3/31/98
3060–0273	Sec. 94.43	1/31/96
3060–0274	Sec. 94.45	2/28/97
3060–0280	Sec. 90.633(F) & (G)	1/31/96
3060–0281	Sec. 90.651	2/28/98
3060–0282	Sec. 94.17	5/31/97
3060–0284	Sec. 94.25 (F) (G) & (I)	2/28/98
3060–0286	Sec. 80.302	12/31/96
3060–0287	Sec. 78.69	8/31/98
3060–0288	Sec. 78.33	12/31/96
3060–0289	Sec. 76.601	12/31/95
3060–0290	Sec. 90.517	1/31/96
3060–0291	Sec. 90.477	2/28/98
3060–0292	Part 69	5/31/97
3060–0295	Sec. 90.607 (b)(1) & (c)(1)	12/31/97
3060–0297	Sec. 80.503	12/31/97
3060–0298	Part 61	7/31/97
3060–0300	Sec. 94.107	2/28/98
3060–0301	Sec. 94.113	1/31/96
3060–0302	Sec. 97.9	12/31/95
3060–0303	Sec. 97.5	12/31/95
3060–0307	Sec. 90.629(A)	1/31/96
3060–0308	Sec. 90.505	2/28/98
3060–0309	Sec. 74.1281	11/30/96
3060–0310	Sec. 76.12	12/31/96
3060–0311	Sec. 76.54	11/30/96
3060–0312	Sec. 94.27(A)(6)	1/31/96
3060–0313	Sec. 76.207	5/31/98
3060–0314	Sec. 76.209	12/31/97
3060–0315	Sec. 76.221	11/30/96
3060–0316	Sec. 76.305	5/31/98
3060–0318	FCC 489	10/31/97
3060–0319	FCC 490	10/31/97
3060–0320	Sec. 73.1350	2/28/98
3060–0321	Sec. 73.68	1/31/96
3060–0323	Sec. 97.527	3/31/96
3060–0325	Sec. 80.605	8/31/96
3060–0326	Sec. 73.69	11/30/96
3060–0329	Sec. 2.955	12/31/95
3060–0331	Sec. 76.615	5/31/98
3060–0332	Sec. 76.614	8/30/98
3060–0339	Sec. 78.11	1/31/97
3060–0340	Sec. 73.51	8/31/97
3060–0341	Sec. 73.1680	8/31/97

OMB control No.	FCC form number or 47 CFR section or part identifying and describing	OMB expiration date
3060–0342	Sec. 74.1284	7/31/97
3060–0343	Sec. 25.140	5/31/97
3060–0344	Sec. 1.1705	8/31/97
3060–0345	Sec. 1.1709	8/31/97
3060–0346	Sec. 78.27	12/31/97
3060–0347	Sec. 97.311	9/30/97
3060–0348	Sec. 76.79	12/31/97
3060–0349	Sec. 76.73 and 76.75	11/30/97
3060–0355	FCC 492 and FCC 492A	5/31/98
3060–0357	Sec. 63.701	5/31/98
3060–0360	Sec. 80.409(c)	7/31/98
3060–0361	Sec. 80.29	5/31/98
3060–0362	Sec. 80.401	5/31/98
3060–0364	Sec. 80.409 (d) and (e)	7/31/98
3060–0370	Part 32	9/30/95
3060–0374	Sec. 73.1690	11/30/95
3060–0383	part 25	5/31/97
3060–0384	Sec. 64.904	12/31/95
3060–0386	Sec. 73.1635	4/30/96
3060–0387	Sec. 15.201(d)	4/30/96
3060–0388	Sec. 80.227	4/30/96
3060–0390	FCC 395B	11/30/96
3060–0392	Sec. 1.1401–1.1415	8/30/96
3060–0393	Sec. 73.45	11/30/96
3060–0394	Sec. 1.420	11/30/96
3060–0395	Sec. 43.21 and 43.22 FCC 43–02, FCC 43–05 and FCC 43–07	3/31/98
3060–0397	Sec. 15.7(A)	11/30/96
3060–0398	Sec. 2.943, 15.117(G)(2), 80.1053	10/31/95
3060–0402	FCC 494	12/31/95
3060–0403	FCC 494–A	3/31/97
3060–0404	FCC 350	1/31/97
3060–0405	FCC 349	9/30/98
3060–0407	FCC 307	3/31/97
3060–0410	FCC 495A and FCC 495B	3/31/97
3060–0411	Sec. 1.720–1.735	3/31/98
3060–0419	Sec. 76.94, 76.95, 76.155, 76.156, 76.157, 76.159	9/30/98
3060–0422	Sec. 68.5	5/31/98
3060–0423	Sec. 73.3588	11/30/96
3060–0425	Sec. 74.913	8/31/98
3060–0427	Sec. 73.3523	7/31/97
3060–0428	Sec. 15.31	10/31/95
3060–0430	Sec. 1.1206	5/31/98
3060–0433	FCC 320	11/30/95
3060–0434	Sec. 90.19(F)(7)	12/31/95
3060–0435	Sec. 80.361	10/31/98
3060–0436	Sec. 15.214 and 68.200	1/31/96
3060–0438	FCC 464	11/30/97
3060–0440	FCC 155	2/28/98
3060–0441	Sec. 90.621(B)(4)	4/30/96
3060–0443	FCC 572C	5/31/96
3060–0444	FCC 800A	8/31/97
3060–0446	Sec. 1.402	6/30/97
3060–0447	Sec. 25.134	12/31/97
3060–0448	Sec. 63.07	8/31/96
3060–0449	Sec. 1.65(c)	1/31/96
3060–0452	Sec. 73.3589	11/30/96
3060–0461	Sec. 90.173	12/31/96
3060–0465	Sec. 74.985	1/31/97
3060–0466	Sec. 74.1283	2/28/97
3060–0472	FCC 6027I	2/28/97
3060–0473	Sec. 74.1251	2/28/97
3060–0474	Sec. 74.1263	3/31/97
3060–0479	Sec. 73.661 and 73.3526(A)(11)	11/30/96
3060–0480	FCC 493	5/31/97
3060–0481	FCC 452R	8/31/97
3060–0483	Sec. 73.687	7/31/97
3060–0484	Sec. 63.100	5/30/96
3060–0488	Sec. 73.30	12/31/97
3060–0489	Sec. 73.37	12/31/97
3060–0490	Sec. 74.902	12/31/97
3060–0491	Sec. 74.991	12/31/97
3060–0492	Sec. 74.992	12/31/97
3060–0493	Sec. 74.986	12/31/97

OMB control No.	FCC form number or 47 CFR section or part identifying and describing	OMB expiration date
3060–0494	Sec. 74.990	12/31/97
3060–0496	FCC Report 43–08	11/30/97
3060–0498	FCC 90	8/31/98
3060–0500	Sec. 76.607	5/31/96
3060–0501	Sec. 76.206	5/31/98
3060–0502	Sec. 73.1942	5/31/98
3060–0504	Sec. 90.658	8/31/98
3060–0506	FCC 302–FM	1/31/97
3060–0509	FCC Reports FCC 21–01, FCC 22–01, FCC 25–01 and FCC 25–02	8/31/98
3060–0511	FCC Report 43–04	8/31/98
3060–0512	FCC Report 43–01	8/31/98
3060–0513	FCC Report 43–03	3/31/98
3060–0514	Sec. 43.21(c)	3/31/97
3060–0515	Sec. 43.21(d)	8/31/98
3060–0517	Sec. 90.607	10/31/95
3060–0518	Sec. 90.631	10/31/95
3060–0520	Sec. 90.127(E)	12/31/95
3060–0522	Sec. 88.1019(B)	1/31/96
3060–0523	Sec. 88.309(C)	1/31/96
3060–0524	Sec. 88.1011	1/31/96
3060–0525	Sec. 88.1019(A)	1/31/96
3060–0532	Sec. 2.975(A)(8) and 2.1033(B)(12)	5/31/96
3060–0535	FCC 494, 494A, 430 and 705	1/31/96
3060–0536	FCC 431	2/28/96
3060–0537	Sec. 13.217	3/31/96
3060–0538	Sec. 25.131	3/31/96
3060–0539	FCC 493, 430, and 405	2/28/97
3060–0541	FCC 464–A	3/31/96
3060–0543	Part 1, 2, and 21	2/28/96
3060–0544	Sec. 76.701	4/30/96
3060–0546	Sec. 76.59	4/30/96
3060–0547	Sec. 76.61 and 76.7	9/30/98
3060–0549	FCC 329	12/31/96
3060–0550	FCC 328	5/31/96
3060–0551	Sec. 76.1002	5/30/96
3060–0552	Sec. 76.1003	6/30/96
3060–0556	Sec. 80.1061	5/30/96
3060–0560	Sec. 76.911	12/31/97
3060–0561	Sec. 76.913	12/31/97
3060–0562	Sec. 76.916	12/31/97
3060–0563	Sec. 76.915	6/30/97
3060–0564	Sec. 76.924	6/30/97
3060–0565	Sec. 76.944	6/30/97
3060–0567	Sec. 76.962	5/31/98
3060–0568	Sec. 76.970	4/30/97
3060–0569	Sec. 76.975	6/30/97
3060–0570	Sec. 76.982	12/31/97
3060–0571	FCC 393	6/30/96
3060–0572	Sec. 43.82	8/31/98
3060–0573	FCC 394	8/31/96
3060–0574	FCC 395–M	7/31/96
3060–0576	FCC 610R	10/31/96
3060–0580	Sec. 76.504	1/31/97
3060–0581	Sec. 76.503	1/31/97
3060–0582	Sec. 76.1302	1/31/97
3060–0584	FCC 45	12/31/96
3060–0585	FCC 44	12/31/96
3060–0587	Sec. 90.673	1/31/97
3060–0588	Sec. 90.677	1/31/97
3060–0589	FCC 159, and 159C	9/30/98
3060–0592	FCC 1205	4/30/97
3060–0593	FCC 1215	4/30/97
3060–0594	FCC 1220	4/30/97
3060–0595	FCC.1210	2/28/98
3060–0596	FCC 1225	4/30/97
3060–0597	FCC 1201	4/30/97
3060–0600	FCC 175 and 175–S	12/31/97
3060–0601	FCC 1200	4/30/97
3060–0602	Sec. 76.917	4/30/97
3060–0603	Sec. 76.923	4/30/97
3060–0604	FCC 401, 489, 490, 405, 430, and 854	5/31/97
3060–0607	Sec. 76.922	2/28/98
3060–0608	Sec. 76.964(B)	8/31/97

OMB control No.	FCC form number or 47 CFR section or part identifying and describing	OMB expiration date
3060–0609	Sec. 76.934(D)	8/31/97
3060–0610	Sec. 76.958	8/31/97
3060–0611	Sec. 74.783	7/31/97
3060–0615	FCC 405S	8/31/97
3060–0621	FCC 401, 405, 430, 489, 490 and 854	10/31/97
3060–0623	FCC 600	10/31/97
3060–0627	FCC 302–AM	1/31/98
3060–0629	Sec. 76.987(G)	2/28/98
3060–0630	Sec. 73.62	2/28/98
3060–0631	Sec. 73.1300	2/28/98
3060–0632	Sec. 73.1570	2/28/98
3060–0633	Sec. 73.1230, 74.165, 74.432, 74.564, 74.664, 74.765, 74.832, 74.965 and 74.1265.	2/28/98
3060–0634	Sec. 73.691	2/28/98
3060–0635	FCC 610–V	4/30/98
3060–0636	Part 2 and 18	5/30/98
3060–0638	Sec. 76.934(F)(1)	5/31/98
3060–0640	FCC 800I	7/31/98
3060–0641	FCC 2181	7/31/98
3060–0643	Part 65 and 69	8/31/98
3060–0644	FCC 1230	8/31/98
3060–0648	Sec. 21.902	9/30/98
3060–0649	Sec. 76.58	9/30/98
3060–0650	Sec. 76.502	9/30/98
3060–0651	Sec. 76.9	9/30/98
3060–0652	Sec. 76.309 and 76.964	9/30/98
3060–0653	Sec. 64.703(b)	9/30/98
3060–0654	FCC 304	9/30/98
3060–0656	FCC 175–M	9/30/98
3060–0657	Sec. 21.956	9/30/98
3060–0660	Sec. 21.937	9/30/98
3060–0662	Sec. 21.930	9/30/83
3060–0664	FCC 304A	9/30/98
3060–0665	Sec. 65.707	9/30/98
3060–0666	Sec. 64.703(a)	9/30/98
3060–0667	Sec. 76.630	9/30/98
3060–0668	Sec. 76.936	9/30/98
3060–0669	Sec. 76.946	9/30/98
3060–0670	Sec. 76.986	9/30/98

OMB control No.	Description of miscellaneous information collections	OMB expiration date
3060–0221	Time in which stations must be placed in operation (exceptions)	12/31/97
3060–0398	Equipment Authorization Measurement Standards—Sec. 2.948, 15.117(G)(2), 15.117(G)(3) and 80.1053(C) (Gen. Docket 89–116, 89–117, 89–118, Further NPRM).	10/31/95
3060–0400	Tariff Review Plan	6/30/96
3060–0414	Terrain Shielding Policy	6/30/97
3060–0421	Price Cap Rules	1/31/96
3060–0428	Reporting and Recordkeeping Requirements of Radio Frequency Device Procedures—Section 15.31 (Gen Docket 89–116, 89–117, 89–118, Further NPRM).	10/31/95
3060–0439	Regulations Concerning Indecent Communications by Telephone	2/28/98
3060–0450	Detariffing the installation and maintenance of inside wiring services; Reports on State Regulatory Activities (CC Docket No. 79–105).	2/28/98
3060–0454	Regulation of International Accounting Rates	2/28/98
3060–0457	Amendment of Part 22 of the Commission's Rules to Establish Standards of Conducting Comparative Cellular Renewal Proceedings (CC Docket No. 90–358).	3/31/96
3060–0463	Telecommunications Services for Individuals with Hearing and Speech Disabilities, & the Americans with Disabilities Act of 1990 (CC Docket No. 90–571).	6/30/97
3060–0470	Computer III Remand Proceeding: Bell Operating Company Safeguards and Tier I Local Exchange Company Safeguards and Implementation of Further Costs (CC Docket No. 90–623).	8/31/98
3060–0478	Informational Tariffs	3/31/97
3060–0486	Document Index Terms	12/31/97
3060–0495	Regulation of International Common Carrier Services (CC Docket No. 91–360)	11/30/95
3060–0508	Rewrite and Update of Part 22 of the Public Mobile Services Rules (CC Docket No. 92–115).	10/31/97
3060–0510	Regulatory Reform for Local Exchange Carriers Subject to Rate Return Regulation (CC Docket No. 92–135).	11/30/95
3060–0516	Revision of Radio Rules and Policies, Time Brokerage Ruling	11/30/95
3060–0519	Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CC Docket No. 92–90).	9/30/98

OMB control No.	Description of miscellaneous information collections	OMB expiration date
3060–0526	Density Pricing Zone Plans, Expanded Interconnection with Local Telephone Company Facilities (CC Docket No. 91–141).	11/30/95
3060–0531	Redesignating the 27.5–29.5 GHZ Frequency Band, Establishing Rules and Policies for Local Multipoint Distribution—47 CFR Parts 1 and 21 (NPRM).	1/31/96
3060–0540	Tariff Filing Requirements for Nondominant Common Carriers	2/28/96
3060–0542	Frequency Coordinator Evaluation	5/31/98
3060–0545	Use of Metric Measurement, Proposed Section 61.37 (CC Docket No. 93–55)	4/30/96
3060–0554	Special Requirements for 406.025 MHZ ELTS 87.199, (PR Docket No. 93–143) (NPRM).	6/30/96
3060–0559	International PSN Quarterly Reports	5/31/96
3060–0577	Expanded Interconnection with Local Telephone Company Facilities	9/30/96
3060–0579	Expanded Interconnection with Local Telephone Company Facilities for Interstate Switched Transport Services.	11/30/96
3060–0583	Amendment of Part 32 and 64 of the Commission's Rules to Account for Transactions Between Carriers and their Nonregulated Affiliates (CC Docket No. 93–251) (NPRM).	12/31/96
3060–0591	Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610–1626.5/2483.5–2500 MHZ Frequency Bands.	2/28/97
3060–0599	Implementation of Sections 3(N) and 322 of the Communications Act, Second R&O (GN Docket No. 93–52).	4/30/97
3060–0624	Amendment of the Commission's Rules to Establish New Narrowband Personal Communications Services (ET Docket No. 92–100 and GN Docket No. 90–314).	12/31/97
3060–0626	Implementation of Sections 3(N) and 332 of the Communications Third R&O (GN Docket No. 93–252).	11/30/97
3060–0639	Implementation of Section 309(J) of the Communications Act Competitive Bidding, First R&O (PP Docket No. 93–253).	4/30/98
3060–0642	FCC Survey of Cable Industry Costs	12/31/96
3060–0646	Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers (CC Docket No. 94–129).	9/30/98
3060–0677	800 Service Providers and Customers Investigation	11/30/95

[FR Doc. 95–24237 Filed 9–28–95; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR 552, 554, 573, 576, and 577

[Docket No. 93–68, Notice 7]

Defect and Noncompliance Reports; Record Retention; Defect and Noncompliance Notification Establishment of Effective Date

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Establishment of effective date of certain amendments currently under reconsideration; clarification.

SUMMARY: This document clarifies that the effective date of several of the amendments to NHTSA's defect investigation and reporting regulations that were published in the **Federal Register** on April 5, 1995 (60 FR 17254) will be January 2, 1996. These amendments—to 49 CFR Part 576 (record retention) and 49 CFR sections 573.5(c)(8) (recall schedule); 573.7 (leased vehicle recordkeeping); and 577.5(h) (recall notification of lessees)—are currently the subject of petitions for reconsideration. To allow the agency the opportunity to consider the issues raised by the petitions for reconsideration, NHTSA indefinitely suspended the effectiveness of those amendments on July 7, 1995 (60 FR 35458). In response to advice from the Office of the Federal Register that it is not proper to have rules in place without a definite effective date, NHTSA is establishing January 2, 1996 as the effective date of the identified amendments. All other amendments made by the April 5, 1995 final rule went into effect on July 7, 1995.

EFFECTIVE DATES: Effective May 4, 1995, the effective date of the April 5, 1995 amendments to 49 CFR Part 576 and 49 CFR 573.5(c)(8), 573.7 and 577.5(h) is January 2, 1996, and the effective date of all other amendments made by the April 5, 1995 final rule is July 7, 1995.

FOR FURTHER INFORMATION CONTACT: Jonathan D. White, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 5319, Washington, DC 20590; (202) 366–5227.

SUPPLEMENTARY INFORMATION: By final rule published in the **Federal Register** on April 5, 1995 (60 FR 17254), NHTSA amended several provisions of its defect investigation and reporting regulations. The effective date of those amendments was originally to be May 5, 1995. However, shortly before May 5, NHTSA received several petitions for reconsideration of certain of those amendments as well as requests for postponement of the effective date of the entire final rule.

NHTSA was unable to act on those requests prior to May 5. Thus, by notice published on May 16, 1995 (60 FR 26002), the agency rescinded the May 5, 1995 effective date and adopted a new effective date of July 7, 1995 for all of the April 5 amendments.

In June 1995, NHTSA decided that it wished to gather and consider additional information on certain of the amendments that were identified in the petitions for reconsideration. The agency decided that those amendments—to 49 CFR Part 576 (record retention) and 49 CFR sections 573.5(c)(8) (recall schedule); 573.7 (leased vehicle recordkeeping); and 577.5(h) (recall notification of lessees)—should not go into effect until the completion of the reconsideration process. Therefore, by notice published in the **Federal Register** on July 7, 1995 (60 FR 35458), NHTSA suspended the effective date of those four amendments "until further notice."

NHTSA has been advised by the Office of the Federal Register that it is not appropriate to have rules in place without a definite effective date and that

the agency should have indicated in the May 16, 1995 notice that the July 7, 1995 effective date was retroactively established as of May 4, 1995. To address these problems and to alleviate any potential ambiguity regarding the effectiveness of these amendments, NHTSA is issuing this notice to clarify that, effective May 4, 1995, the effective date of the amendments to 49 CFR Part 576, Record Retention, and 49 CFR 573.5(c)(8) (recall schedule), 573.7 (leased vehicle recordkeeping), and 577.5(h) (recall notification of lessees) that were published on April 5, 1995 will be January 2, 1996. All other amendments made by the April 5, 1995 final rule became effective on July 7, 1995.

Issued on: September 21, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–24123 Filed 9–23–95; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 571

[Docket No. 74–09; Notice 42]

RIN 2127–AF02

Federal Motor Vehicle Safety Standards; Child Restraint Systems; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that was published Thursday, July 6, 1995 (60 FR 35126). The rule amended Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems*, to add a greater array of sizes and weights of test dummies to Standard 213 for use in compliance tests.

EFFECTIVE DATE: January 3, 1996.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Dr. George Mouchahoir, Office of Vehicle Safety Standards (telephone 202–366–4919).

For legal issues: Ms. Deirdre Fujita, Office of the Chief Counsel (202–366–2992). Both can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

SUPPLEMENTARY INFORMATION:

Background

This rule corrects a final rule that amended FMVSS No. 213, *Child Restraint Systems*, to add a greater array of sizes and weights of test dummies to Standard 213 for use in compliance tests. The final rule was published Thursday, July 6, 1995 (60 FR 35126).

Need for Correction

As published, the final rule contains errors that may prove to be misleading and are in need of clarification. First, the effective date of the amendments adopted by the rule, as drafted, did not conform to the drafting requirements of the **Federal Register**. Second, one of the labeling requirements directed manufacturers to specify the sitting height of children for whom the restraint is recommended. This is an error because, while the proposed rule considered requiring a sitting height measure, NHTSA decided against this in the final rule. Third, there are redundant terms that are at the beginning of the section that specifies which dummy is used to test a child restraint recommended for use by older children (S7.1(c)). This document removes them.

NHTSA notes that the agency has received petitions for reconsideration requesting a delay in the January 3, 1996 effective date of the rule for add-on child restraints. These petitions are pending. This correction notice does not represent or imply any agency decision or other exercise of judgment concerning the merits of that request. NHTSA's evaluation of those petitions is on-going and a decision to grant or deny those petitions will be published shortly.

Correction of Publication

Accordingly, the publication on July 6, 1995 of the final rule (Docket No. 74–09, Notice 42), is corrected as follows:

1. On page 35127, in the first column, the **DATES** section is corrected to read as follows:

DATES: This rule is effective January 3, 1996.

However, manufacturers of built-in child restraint systems may comply with existing requirements for built-in systems (as of July 6, 1995) until September 1, 1996.

Manufacturers of add-on child restraint systems may comply with existing requirements for add-on systems (as of July 6, 1995) until January 3, 1996.

§ 571.213 [Corrected]

2. On page 35140, in the first column, in § 571.213, in S5.5.5(f)(3), line four, the word "sitting" is removed.

3. On page 35142, in the first column, in § 571.213, in S7.1(c), line one, the words "Except for a booster seat, a child" are corrected to read "A child".

Dated: September 26, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–24231 Filed 9–28–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

RIN 1018–AC 78

Changes in the List of Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention) regulates international trade in certain animals and plants. Species or other taxa for which such trade is controlled are listed in Appendices I, II, and III to CITES. The countries participating in this treaty, including the United States, adopted amendments to Appendices I and II at the ninth meeting of the Conference of the Parties (COP9) in November, 1994. The United States did not enter a reservation against any of the adopted amendments. This document incorporates all these amendments into the U.S. Fish and Wildlife Service's (Service) regulations implementing CITES. This rule includes an amended, complete listing of CITES-protected animal and plant taxa (50 CFR 23.23) that incorporates the adopted amendments. This new list also incorporates extensive recommendations of the Nomenclature Committee adopted by the Parties, including changes in scientific names and/or listing sequences resulting from adoption of new, standard, taxonomic references for birds and mammals. These taxonomic changes do not affect the status under CITES of any listed animal or plant and do not change the attendant responsibilities of the United States or any other CITES Party for regulating trade in same. The introductory text of the revised § 23.23 also incorporates new language regarding trade in certain ornamental plants, based on proposals submitted by Australia through the CITES postal procedures and adopted by the Parties in 1993.

DATES: The amendments set forth in this rule entered into effect and became enforceable on February 16, 1995, under the terms of CITES. Therefore, this rule is effective September 29, 1995.

ADDRESSES: Please send correspondence concerning this document to Chief, Office of Scientific Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, room 725; Arlington, Virginia, 22203; fax number 703–358–2276. Express and messenger deliveries should be addressed to the Office of Scientific Authority; 4401 North Fairfax Drive, room 750; Arlington, Virginia, 22203. Materials received will be available for public inspection by appointment, from 8:00 a.m. to 4:00 p.m. Monday through Friday at the above address in Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, U.S. Fish and Wildlife Service, at telephone 703–358–1708.

SUPPLEMENTARY INFORMATION:

Background

CITES regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which the trade is controlled are included in three Appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that, although not necessarily now threatened with extinction, may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes species that any Party identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties to control trade.

Any CITES Party may propose amendments to Appendices I and II for consideration either at meetings of the Parties held about every 2½ years or, occasionally, by a postal vote process. The text of proposals must be communicated to the CITES Secretariat at least 150 days before such a meeting. The Secretariat must then consult the other Parties and appropriate intergovernmental agencies, and communicate responses to all Parties no later than 30 days before the meeting. Amendments are adopted by consensus or a two-thirds majority of the Parties present and voting.

Actions of the Parties

The ninth meeting of the Conference of the Parties to CITES was held November 7–18, 1994, in Fort Lauderdale, Florida. Decisions of the Parties on 79 different animal proposals and 42 different plant proposals to amend the Appendices I and II were reported in a proposed rule in the **Federal Register** on January 3, 1995 (60 FR 73). The same **Federal Register** also briefly described a report by the CITES Nomenclature Committee, which was adopted by Party vote. By recommending certain changes in spelling, names of taxa, and annotations, this report resolved a multitude of questions that have arisen over the years regarding appropriate nomenclature for taxa listed in Appendix I prior to adoption of the Berne listing criteria in 1977. The report also recommended a standard taxonomic reference for mammals different from that used previously. Adoption of this report has resulted in numerous changes in the scientific names and/or listing sequences of many taxa of mammals listed in Appendices I, II, and III. Similar types of changes have become necessary for birds, because of adoption of a standard taxonomic reference for birds by the Parties at COP8 in 1992. Until now, those changes had not been incorporated into 50 CFR § 23.23. Although many of these changes are taxonomically significant, they alter neither the status under CITES of any listed animal or plant nor the attendant responsibilities of CITES Parties for regulating trade in same. A copy of the report of the Nomenclature Committee is available from the Office of Scientific Authority (see **ADDRESSES**).

Both the January 3, 1995 proposed rule (60 FR 73) and a previous notice of November 8, 1994 (59 FR 55617) requested comments from the public on whether the United States should enter reservations against any of the listing amendments. If the United States were to enter a reservation, it would be treated as a country not party to CITES with respect to trade in that particular species. However, because of the requirements of other Parties, the U.S. Lacey Act Amendments of 1981, and relevant CITES resolutions, the effect of a reservation would be limited. More comprehensive discussions of any practical effects of entering a reservation and reasons for or against entering reservations are contained in the November 8, 1994 and January 3, 1995 **Federal Register** notices (59 FR 55617 and 60 FR 73, respectively).

Related Considerations

At COP9, the Parties voted to downlist the South African population of the white rhinoceros, *Ceratotherium simum simum*, from Appendix I to Appendix II "for the exclusive purpose of allowing international trade in live animals to appropriate and acceptable destinations and hunting trophies." The effect of this annotation is that any white rhinoceros part or product not meeting the specific conditions of the annotated downlisting is subject to a "zero" quota and therefore prohibited from international trade. One consequence of this annotated downlisting is that importers of sport-hunted trophies of white rhinoceros from South Africa now require only a CITES export permit from South Africa. Issuance of the export permit requires a finding by the South African CITES Scientific Authority that the export will not be detrimental to the survival of the species. When the population was listed on Appendix I, there was an additional requirement of an import permit from the importing country, based on the importing country's own findings that (a) the specimen was not to be used for primarily commercial purposes and (b) the import was for purposes not detrimental to the survival of the species.

In September 1992, Australia submitted three proposals on plants through the postal procedures of CITES (see 57 FR 53090, November 6, 1992). Two of these proposals dealt with certain considerations for ornamental plants and were accepted by the Parties. Changes to the appendices resulting from these two amendments entered into force on April 16, 1993. With these changes, the Parties (including the United States) agreed to the following trade policies: (1) trade in artificially propagated hybrids of Appendix I plant taxa requires only a certificate of artificial propagation; (2) those hybrids' cut flowers, seeds and pollen (including pollinia), and flasked seedling cultures and tissue cultures are exempt from CITES controls; and (3) flasked seedling cultures and tissue cultures of the 11 taxa of orchids then in Appendix I were exempted from CITES controls.

The third Australian proposal had sought exclusion of certain parts and derivatives of seven tree species in Appendix II from CITES controls. Australia decided to withdraw that proposal and to refer the topic to the CITES Plants Committee. Information related to this topic is in two documents (Doc. 9.52 and Com. 9.32) that are part

of the official record of COP9, and in Doc. SC.35.5 (Rev.) from the March 1995 meeting of the CITES Standing Committee.

Details regarding the three September 1992 proposals and the comments received in response to 57 FR 53090 (November 6, 1992) are available from the Service's Office of Scientific Authority. The results of the two accepted proposals are incorporated below into a revised 50 CFR § 23.23, which also includes the further modifications related to flasked seedlings and tissue cultures adopted at COP9 (see 60 FR 73, January 3, 1995).

Requests for Reservations and U.S. Decisions

In response to the November 8, 1994, and January 3, 1995, **Federal Register** notices, the Service received one request for the United States to enter a reservation on any of the amendments to Appendices I and II adopted by the Parties. The United States was asked to enter a reservation on the de-listing of *Aloe vera*, by Mr. Gary W. Lyons (of Gary Lyons Garden & Horticultural Consultant & Design, Los Angeles), a member of the IUCN/SSC Cactus and Succulent Specialist Group and a past chairman of the Conservation Committee of the Cactus and Succulent Society of America. Prior to COP9, artificially propagated whole plants of *Aloe vera* were in Appendix II, but their separate leaves and other parts and derivatives were not included. All other aloes, including wild *Aloe vera*, were included either in CITES Appendix II or Appendix I.

As one basis for his request, Mr. Lyons cited the confusion among experts about what plants are meant by the scientific name "*Aloe vera*." The adopted Swiss proposal to de-list *Aloe vera* considers *Aloe vera* var. *chinensis* (with *Aloe indica* indicated as a synonym), which is coral-flowered, as a species distinct from the yellow-flowered *Aloe vera* var. *vera* (synonym *Aloe barbadensis*). The practical effect of this taxonomic interpretation in the proposal is that the yellow-flowered plants have been de-listed, whereas the coral-flowered plants remain in Appendix II. However, Mr. Lyons stated that specimens of both of these entities are commonly cultivated and in trade under the common name aloe vera and the scientific name *Aloe vera* (or *Aloe barbadensis*).

Mr. Lyons also asserts, based on his familiarity with *Aloe* plants, review of the scientific literature, and a September 1994 discussion with one of the foremost field botanists for succulent plants in Africa and the Middle East (Mr. John Lavranos), that *Aloe vera* (var. *vera*) could still be extant where native in the wild, perhaps in Ethiopia, Yemen, southern Saudi Arabia, Oman, or Iran.

Regardless of the merits of the above points, a reservation cannot be entered on the COP9 decision to de-list *Aloe vera* (i.e., other than the var. *chinensis*). CITES Article XV, paragraph 3, which provides for reservations to amendments to Appendices I and II, states that a Party that has entered a reservation "shall be treated as a State not party to the present Convention with respect to trade in the species concerned." Therefore a Party cannot, either in legal or in practical terms, unilaterally maintain a CITES listing that the Parties have voted to remove from the appendices. Therefore, the United States did not enter a reservation on the de-listing of *Aloe vera*.

At COP9, problems including those raised by Mr. Lyons were referred to the CITES Plants Committee for further consideration. The Plants Committee examined these issues further at its meeting of June 19–23, 1995, in Spain, agreeing that *Aloe vera* var. *chinensis* remains listed and that *A. vera* var. *vera* might not be extinct.

Procedural Requirements

This **Federal Register** notice implements changes in the list of species in the CITES appendices that have already been approved by the Conference of the Parties at their ninth meeting, and that the United States is bound to accept unless it entered reservations. The Service does not believe that implementation of any of these adopted amendments (or the adopted changes in nomenclature) would be contrary to the interests or laws of the United States. The period of time during which the United States could have entered a reservation against any of the amendments ended on February 15, 1995. The Service did not recommend the entry of any reservations, and none were taken by the United States. Therefore, these amendments to the CITES Appendices have been in effect for the United States since February 16, 1995.

This notice brings the information in 50 CFR § 23.23 into agreement with the current species listings in the CITES appendices. Earlier **Federal Register** notices informed the public about these amendments and provided opportunity for comment on them, including announced public meetings on September 14 and 16, 1994. Therefore, the Department of the Interior has determined that good cause exists for making this rule effective upon its date of publication [5 U.S.C. 553(d)]. Accordingly, § 23.23 of 50 CFR is considered amended upon publication of this rule.

Because of the number of changes necessitated by the nomenclature report, a complete revision of the list of animals and plants included in Appendices I, II, and III to CITES (50 CFR § 23.23), rather than a separate list of changes to the existing list, is warranted and appears at the end of this rule. This fully revised and updated § 23.23 incorporates (a) the recommendations of the nomenclature report and (b) new or revised listings resulting from the amendments to Appendices I and II adopted at COP9, including, in paragraph (d), clarifying language regarding plant parts and derivatives. It also modifies language in paragraph (a) in order to clarify the organization of the table in paragraph (f), and corrects non-substantive, typographical errors in the current listing.

Additions and most other changes resulting from amendments adopted at COP9 appear in their appropriate positions in the list and are preceded by a "+" to permit rapid location. However, taxa that were deleted from CITES appendices, or taxa absorbed into a listed higher taxon (frequently a consequence of moving from Appendix I to Appendix II, for example) do not appear in the list. These types of changes can be traced by comparison of the new list with the list of COP9 listing decisions published in the January 3, 1995 **Federal Register**. In order to minimize difficulties for users, the scientific names formerly used for animal or plant taxa affected by the new taxonomic treatments still appear in the "Species" column of the new list but are cross-referenced to the new names.

The Department has determined that amendments to CITES Appendices, which result from actions of the CITES Parties, do not require the preparation of Environmental Assessments as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321–4347). This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Regulatory Flexibility Act (5 U.S.C. 601) does not apply to this listing process. The adjustments to the list in 50 CFR § 23.23 presented below are solely informational to provide the public with accurate data on the species covered by CITES. The listing changes adopted by the Parties took effect on February 16, 1995, under the terms of CITES. This rule does not contain information collection requirements that require approval by the Office of

Management and Budget under 44 U.S.C. 3501 *et seq.*

This document was prepared by Drs. Marshall A. Howe and Bruce MacBryde, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.* and 87 Stat. 884, as amended).

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Regulation Promulgation

Accordingly, for the reasons set out in the preamble of this document, Part 23 of Title 50, Code of Federal Regulations, is amended as follows: 1. The authority citation for Part 23 continues to read as follows:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.S.T. 108; and Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

* * * * *

2. Section 23.23 is revised in its entirety to read as follows.

(**Note:** For the convenience of the user, the "+" symbol that procedes certain entries denotes changes resulting from the November 1994 Conference of the Parties to CITES. This symbol will not appear in the Code of Federal Regulations.)

Subpart C—Appendices I, II and III to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

§ 23.23 Species listed in Appendices I, II, and III.

(a) The list in this section includes species of wildlife and plants placed in Appendix I, II or III in accordance with the provisions of Articles XV and XVI of the Convention.

The list of species is organized as follows:

Major group	Subgroups
Mammals.	Orders, in taxonomic sequence.
Birds	Orders, in taxonomic sequence.
Reptiles	Orders, in taxonomic sequence.
Amphibians.	Orders, in taxonomic sequence.
Fishes	Orders, in taxonomic sequence.
Molluscs	Classes.
Arthropods.	Classes.
Plants	Families, in alphabetical sequence.

Within each Subgroup, lower taxonomic units (mainly genera, but sometimes families or subfamilies) are listed in alphabetical sequence. Within genera, the scientific names of the species are listed in alphabetical sequence. The scientific name takes precedence over the common name in determining if a species is listed.

(b) The appendix column of the list includes the annotation "pe" (=possibly extinct) for certain species. It also contains the names of Parties including species in Appendix III.

(c) For purposes of issuing United States certificates of exemption under Article VII(3), the date when the Convention applies to a species is the date when the inclusion of that species in the appendices enters into force under the terms of Article XV or XVI of the Convention. The date of first listing is retained if a species is transferred from one appendix to another or if a listed species is subsequently included with other species in the listing of a taxon above the species level. Such species are shown separately in this publication of the appendices. The date of a subsequent listing is used only if a species is entirely deleted from the appendices and is subsequently reincluded after an intervening period of time.

(d) Subject to the regulations of this part are all living or dead animals or plants in Appendix I, II or III, and all their readily recognizable parts and derivatives except for specified parts or derivatives of particular Appendix III animal species as excluded in the particular listing and the following categorically excluded or exempted parts or derivatives of certain plants:

(1) For Appendix II and Appendix III plants and artificially propagated hybrids of Appendix I plants: Seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers; and

(2) For Appendix II and Appendix III plants: Seeds, spores, and pollen (including pollinia); and

(3) For artificially propagated hybrids of Appendix I plants:

(i) Seeds and pollen (including pollinia) and

(ii) Cut flowers; and

(4) For *Panax quinquefolius* (in Araliaceae), parts and derivatives other than roots and their readily recognizable parts.

(5) For artificially propagated or naturalized Appendix II Cactaceae species:

(i) Fruits and their parts and derivatives;

(ii) For *Opuntia* subgenus *Opuntia* species, separate stem joints (pads) and their parts and derivatives.

(6) For Orchidaceae species:

(i) In Appendix I, seedling or tissue cultures obtained *in vitro*, in solid or liquid media, transported in sterile containers;

(ii) In Appendix II, if artificially propagated:

(A) Cut flowers, and

(B) For *Vanilla* species, fruits and their parts and derivatives.

(e) The list of species set out in paragraph (f) is informational and not regulatory in nature. It is solely intended as a convenience to the public. The official list of species included in Appendices I, II, and III is the one maintained by the CITES Secretariat based on the decisions of the Parties to the Convention.

(f) The list of species in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora is provided below:

Species	Common name	Appendix	First listing date (month/day/year)
CLASS MAMMALIA:	MAMMALS:		
Order Monotremata:	Monotremes:		
Zaglossus spp	Spiny anteaters	II	2/4/77
Order Dasyuromorphia:	Dunnarts (Marsupial-mice), Tasmanian wolf:		
Sminthopsis longicaudata	Long-tailed marsupial-mouse, Long-tailed dunnart	I	7/1/75
S. psammophila	Large desert marsupial-mouse, Sandhill dunnart	I	7/1/75
Thylacinus cynocephalus	Tasmanian wolf, Thylacine	I pe	7/1/75
Order Peramelemorphia:	Bandicoots:		
Chaeropus ecaudatus	Pig-footed bandicoot	I pe	7/1/75

Species	Common name	Appendix	First listing date (month/day/year)
Macrotis lagotis	Rabbit bandicoot, Bilby	I	7/1/75
M. leucura	Lesser rabbit bandicoot, Yallara	I	7/1/75
Perameles bougainville	Barred bandicoot, Long-nosed bandicoot, Mari	I	7/1/75
Order Diprotodontia:	Kangaroos, Wombats, Wallabies, Cuscuses, Rat-kangaroos, etc.:		
Bettongia spp. (except species listed below)	Rat-kangaroo	I	6/28/79
B. lesueur	Lesueur's rat-kangaroo, Boodie	I	7/1/75
B. penicillata (=*tropica*)	Brush-tailed rat-kangaroo, Woylie	I	7/1/75
Burramys parvus	Mountain pigmy possum	II	7/1/75
Caloprymnus campestris	Desert rat-kangaroo	I pe	7/1/75
Dendrolagus bennettianus	Bennett's tree kangaroo, Dusky tree kangaroo	II	6/28/79
D. inustus	Grizzled tree kangaroo	II	7/1/75
D. lumholtzi	Lumholtz's tree kangaroo	II	6/28/79
D. ursinus	Vogelkop tree kangaroo	II	7/1/75
Lagorchestes hirsutus	Western hare wallaby, Wurrup	I	7/1/75
Lagostrophus fasciatus	Banded hare wallaby, Munning	I	7/1/75
Lasiorhinus krefftii	Queensland hairy-nosed wombat	I	7/1/75
Onychogalea fraenata	Bridled nail-tailed wallaby	I	7/1/75
O. lunata	Crescent nail-tailed wallaby	I	7/1/75
Phalanger maculatus (see *Spilocuscus maculatus*).			
P. orientallis	Gray cuscus	II	6/28/79
Spilocuscus maculatus	Spotted cuscus	II	6/28/79
Order Scandentia:	Tree shrews:	II	2/4/77
Tupaiidae spp	Tree shrews	II	2/4/77
Order Chiroptera:	Bats:.		
Acerodon spp. (all species except those in App. I)	Flying foxes	II	1/18/90
+ *A. jubatus*	Golden-capped fruit bat	I	1/18/90
+ *A. lucifer*	Panay giant fruit bat	I pe	1/18/90
Pteropus spp. (all species except those in App. I or with earlier date in App. II).	Flying foxes	II	1/18/90
P. insularis	Truk flying fox	I	10/22/87
P. macrotis	Big-eared flying fox	II	10/22/87
P. mariannus	Mariana flying fox, Mariana fruit bat.	I	10/22/87
P. molossinus	Ponape flying fox	I	10/22/87
P. phaeocephalus	Mortlock flying fox	I	10/22/87
P. pilosus	Palau flying fox	I	10/22/87
P. samoensis	Samoa flying fox	I	10/22/87
P. tokudae	Little Mariana fruit bat, Tokuda's flying fox.	II	10/22/87
P. tonganus	Insular flying fox, Tonga fruit bat	I	10/22/87
Vampyrops lineatus	White-lined bat	III (Uruguay)	7/14/76
Order Primates (formerly including order Scandentia, above):	Primates: Monkeys, Apes, etc.:		
All species except those in App. II or with earlier date in App. II.		II	2/4/77
Allocebus spp	Hairy-eared dwarf lemur	I	7/1/75
Alouatta palliata (=*villosa*)	Mantled howler monkey	I	7/1/75
A. pigra	Black howler monkey	I	7/1/75
Ateles geoffroyi frontatus	Black-handed spider monkey	I	7/1/75
A. geoffroyi panamensis	Black-handed spider monkey	I	7/1/75
Avahi spp	Avahis, Woolly lemurs	I	7/1/75
Brachyteels arachnoides	Woolly spider monkey	I	7/1/75
Cacajao spp	Uakaris	I	7/1/75
Callimico goeldii	Goeldi's monkey, Callimico	I	7/1/75
Callithrix aurita (=*C. jacchus aurita*)	White-eared marmoset	I	2/4/77
C. flaviceps (=*C. jacchus flaviceps*)	Buff-headed marmoset	I	2/4/77
Cebus capucinus	White-throated capuchin	II	7/1/75
Cercocebus galeritus galeritus	Tana River mangabey, Agile mangabey.	I	7/1/75
Cercopithecus diana (=*C. roloway*)	Diana monkey	I	2/4/77
Cheirogaleus spp	Dwarf lemurs	I	7/1/75
Chiropotes albinasus	White-nosed saki	I	7/1/75
Colobus (see *Procolobus*).			
Daubentonia madagascariensis	Aye-aye	I	7/1/75
Eulemur spp	Lemurs	I	7/1/75
Gorilla gorilla	Gorilla	I	7/1/75
Hapalemur spp	Gentle lemurs	I	7/1/75
Hylobates spp	Gibbons, Siamang	I	7/1/75
Indri spp	Indri	I	7/1/75
Lagothrix flavicauda	Yellow-tailed woolly monkey	I	2/4/77

Species	Common name	Appendix	First listing date (month/day/year)
Lemur spp	Lemurs	I	7/1/75
Leontopithecus (=*Leontideus*) spp	Golden lion tamarin	I	7/1/75
Lepilemur spp	Sportive lemur, Weasel lemur	I	7/1/75
Loris tardigradus	Slender loris	II	7/1/75
Macaca silenus	Lion-tailed macaque	I	7/1/75
M. sylvanus	Barbary ape	II	7/1/75
Mandrillus leucophaeus	Drill	I	2/4/77
M. sphinx	Mandrill	I	2/4/77
Microcebus app.	Mouse lemurs	I	7/1/75
Nasalis (=*Simias*) *concolor*	Pagi Island langur	I	7/1/75
N. larvatus	Proboscis monkey	I	7/1/75
Nycticebus coucang	Slow loris	II	7/1/75
Pan spp	Chimpanzee, Bonobo	I	7/1/75
Papio (see *Mandrillus*).			
Phaner spp	Fork mouse lemur, Fork-marked mouse lemur.	I	7/1/75
Pongo pygmaeus	Orangutan	I	7/1/75
Presbytis entellus (see *Semnopithecus entellus*)			
P. pileata (see *Trachypithecus pileatus*)			
P. potenziani	Long-tailed langur, Mentawai leaf monkey.	I	2/4/77
Presbytis (other species) (see *Trachypithecus*).			
Procolubus badius gordonorum	Uhehe red colobus	II	7/1/75
P. pennantii kirki (=*C. badius kirkii*)	Zanzibar red colobus	I	7/1/75
P. rufomitratus (=*C. badius rufomitratus*)	Tana River red colobus	I	7/1/75
P. verus	Olive colobus	II	7/1/75
Propithecus spp	Sifakas	I	7/1/75
Pygathrix (=*Rhinopithecus*) spp. (except those species with earlier date)	Snub-nosed langurs	I	2/4/77
P. nemaeus	Douc lagur	I	7/1/75
P. roxellana	Sichuan snub-nosed langur	I	7/1/75
Saguinus bicolor	Pied tamarin	I	2/4/77
S. geoffroyi	Geoffroy's marmoset	I	2/4/77
S. leucopus	White-footed tamarin, Silvery-brown bare-face tamarin.	I	2/4/77
S. oedipus (including *S. oedipus geoffroyi*)	Cotton-top tamarin	I	2/4/77
Saimiri oerstedii	Red-backed squirrel monkey	I	7/1/75
Semnopithecus entellus	Gray langur, Common Indian langur.	I	7/1/75
Symphalangus (see *Hylobates*)			
Trachypithecus geei	Golden langur	I	7/1/75
T. johnii	Nilgiri langur	II	7/1/75
T. pileatus	Capped langur	I	7/1/75
Tupaiidae spp. (see order Scandentia, above)			
Varecia spp	Lemurs	I	7/1/75
Order Xenarthra:	Anteaters, Sloths, Armadillos:		
Bradypus variegatus (=*boliviensis or griseus*)	Three-toed sloth	II	7/1/75
Cabassous centralis	Five-toed armadillo	III (Costa Rica)	10/28/76
C. tatouay (=*gymnurus*)	Naked-tailed armadillo	III (Uruguay)	7/14/76
Choloepus hoffmanni	Two-toed sloth	III (Costa Rica)	10/28/76
Myrmecophaga tridactyla	Giant anteater	II	7/1/75
Priodontes maximus (=*giganteus*)	Giant armadillo	I	7/1/75
Tamandua tetradactyla (=*T. mexicana*)	Tamandua, Collared anteater	III (Guatemala)	4/23/81
Order Pholidota:	Pangolins, Scaly Anteaters:		
+ *Manis* spp	Pangolins	II	7/1/75
Order Lagomorpha:	Rabbits, Hares:		
Caprolagus hispidus	Hispid hare, Assam rabbit	I	7/1/75
Romerolagus diazi	Mexican volcano rabbit	I	7/1/75
Order Rodentia:	Rodents:		
Angouti (=*Cuniculus*) *paca*	Greater paca, Spotted cavy	III (Honduras)	4/13/87
Anomalurus beecrofti	Beecroft's scaly-tailed flying squirrel.	III (Ghana)	2/26/76
A. derbianus	Lord Derby's scaly-tailed flying squirrel.	III (Ghana)	2/26/76
A. peli	Pel's scaly-tailed flying squirrel	III (Ghana)	2/26/76
+ *Chinchilla* spp. (populations of South America, except domesticated specimens).	Chinchillas	I	2/4/77
Cynomys mexicanus	Mexican prairie dog	I	7/1/75
Dasyprocta punctata	Common agouti	III (Honduras)	4/13/87
Epixerus ebii	African palm squirrel	III (Ghana)	2/26/76
Hystrix cristata	Crested procupine	III (Ghana)	2/26/76
Idiurus macrotis	Long-eared pygmy flying squirrel	III (Ghana)	2/26/76
Leporillus conditor	Australian stick-nest rat	I	7/1/75

Species	Common name	Appendix	First listing date (month/day/year)
Marmota caudata	Long-tailed marmot	III (India)	3/16/89
M. himalayana	Himalayan marmot	III (India)	3/16/89
Pseudomys praeconis	Shark Bay mouse	I	7/1/75
Ratufa spp	Giant squirrels	II	7/1/75
Sciurus deppei	Deppe's squirrel	III (Costa Rica)	10/28/76
Sphiggurus (=Coendou) mexicanus	Middle American prehensile-tailed porcupine, Coendou.	III (Honduras)	4/1/87
S. (=Coendou) spinosus	Prehensile-tailed porcupine	III (Uruguay)	7/14/76
Xeromys myoides	False water rat	I	7/1/75
Zyzomys pedunculatus	Australian native mouse, McDonnell Range rock rat.	I	7/1/75
Order Cetacea:	Whales, Porpoises, Dolphins:		
All species except those in App. I or with earlier date in App. II.		II	6/28/79
Balaena mysticetus	Bowhead whale	I	7/1/75
Balaenoptera acutorostrata (all populations except that of West Greenland: entry into force as App. I on 1/1/86).	Minke Whale	I	6/28/79
B. borealis	Sei whale	I	2/4/77
B. edeni	Bryde's whale	I	6/28/79
B. musculus	Blue whale	I	7/1/75
B. physalus	Fin whale	I	2/4/77
Berardius spp	Beaked whales	I	6/28/79
Caperea marginata (entry into force as App. I on 1/1/86.	Pygmy right whale	I	6/28/79
Eschrichtius robustus (=glaucus)	Gray whale	I	7/1/75
Eubalaena (=Balaena) spp	Right whales	I	7/1/75
Hyperoodon spp	Bottle-nosed whales	I	6/28/79
Lipotes vexillifer	White flag dolphin, Chinese river dolphin.	I	6/28/79
Megaptera novaeangliae	Humpback whale	I	7/1/75
Monodon monoceros	Narwhal	II	11/16/75
Neophocaena phocaenoides	Finless porpoise	I	6/28/79
Phocoena sinus	Gulf of California harbor porpoise, Cochita.	I	6/28/79
Physeter catodon (=macrocephalus)	Sperm whale	I	2/4/77
Platanista spp	Ganges and Indus River dolphins	I	7/1/75
Pontoporia (=Stenodelphis) blainvillei	La Plata River dolphin	II	7/14/76
Sotalia spp	Humpbacked dolphins	I	6/28/79
Sousa spp	Humpbacked dolphins	I	6/28/79
Order Carnivora:	Carnivores: Cats, Bears, etc.:		
Acinonyx jubatus	Cheetah	I	7/1/75
Ailuropoda melanoleuca	Giant panda	I	3/14/84
+Ailurus fulgens	Lesser panda	I	7/1/75
Aonyx congicus (=microdon) (populations of Cameroon and Nigeria).	West African "clawless" otter	I	7/1/75
Arctictis binturong	Binturon	III (India)	3/16/89
Bassaricyon gabbii	Bushy-tailed olingo	III (Costa Rica)	10/28/76
Bassariscus sumichrasti	Cacomistle	III (Costa Rica)	10/28/76
Canis aureus	Golden jackal	III (India)	3/16/89
C. lupus (all subspecies and populations except those listed below).	Gray wolf	II	2/4/77
C. lupus (India, Pakistan, Bhutan, and Nepal populations).	Gray wolf	I	2/4/77
C. lupus crassodon	Gray wolf, Vancouver Island gray wolf.	II	7/1/75
C. lupus irremotus	Gray wolf, Rocky Mountain gray wolf.	II	7/1/75
C. lupus monstrabilis	Gray wolf	II	7/1/75
C. lupus pallipes	Gray wolf, Middle East gray wolf	II	7/1/75
Caracal (=Felis) caracal (Asian population)	Caracal	I	7/1/75
Catopuma (=Felis) temminckii	Asian golden cat	I	7/1/75
Cerdocyon thous	Crab-eating fox	II	6/11/92
Chrysocyon brachyurus	Maned wolf	II	7/1/75
Civettictis (=Viverra) civetta	African civet	III (Botswana)	4/24/78
Conepatus humboldtii	Humboldt's hognose skunk	II	6/28/79
Cryptoprocta ferox	Fossa	II	2/4/77
Cuon alpinus	Dhole	II	7/1/75
Cynogale bennettii	Otter civet	II	7/1/75
Dusicyon thous (see *Cerdocyon thous*).			
Dusicyon (other species) (see *Pseudalopex*).			
Eira barbara	Tayra	III (Honduras)	4/13/87
Enhydra lutris nereis	Southern sea otter	I	7/1/75

Species	Common name	Appendix	First listing date (month/day/year)
Eupleres goudotii (=*major*)	Malagasy mongoose	II	2/4/77
Felidae spp. (all species in family except Felis catus or those in App. I or with earlier date in App. II).	Cats (not including House cats)	II	2/4/77
Felis (see also the following genera, formerly included in *Felis: Caracal, Catopuma, Herpailurus, Leopardus, Lynx, Oncifelis, Oreailurus, Pardofelis, Prionailurus,* and Puma) *F. nigripes.*	Black-footed cat	I	7/1/75
Fossa fossana (=*fossa*)	Fanaloka	II	2/4/77
Galictis vittata (=*allamandi*)	Grison	III (Costa Rica)	10/28/76
Helarctos malayanus	Sun bear	I	7/1/75
Hemigalus derbyanus	Banded palm civet	II	2/4/77
Herpailurus (=*Felis*) *yaguarondi* (North and Central American populations).	Jaguarundi	I	7/1/75
H. yaguarondi (South American populations)	Jaguarundi	II	7/1/75
Herpestes brachyurus fusca (=*H. fuscus*)	Indian brown mongoose	III (India)	3/16/89
H. edwardsii	Indian gray mongoose	III (India)	3/16/89
H. javanicus auropunctata (=*H. auropunctatus*)	Small Indian mongoose	III (India)	3/16/89
H. smithii	Ruddy mongoose	III (India)	3/16/89
H. urva	Crab-eating mongoose	III (India)	3/16/89
H. vitticollis	Stripe-necked mongoose	III (India)	3/16/89
Hyaena (see Parahyaena)			
Leopardus (=*Felis*) *pardalis* (except subspecies with earlier date).	Ocelot	I	2/4/77
L. pardalis mearnsi	Ocelot	I	7/1/75
L. pardalis mitis	Brazilian ocelot	I	7/1/75
L. tigrinus (=*Felis tigrina*) (except subspecies with earlier date).	Tiger cat, Little spotted cat	I	2/4/77
L. tigrinus oncilla	Tiger cat	I	7/1/75
L. wiedii (except subspecies with earlier date)	Margay	I	2/4/77
L. wiedii nicaraguae	Central American margay	I	7/1/75
L. wiedii salvinia	Guatemalan margay	I	7/1/75
Lontra felina	Marine otter	I	7/1/75
L. longicaudis	Long-tailed otter Neotropical otter	I	7/1/75
L. provocax	Southern river otter, South American river otter.	I	7/1/75
Lutra lutra	European river otter	I	2/4/77
Lutra (other species) (see *Lontra*)			
Lutrinae spp. (all species except those in App. I)	Otters	II	2/4/77
Lynx pardinus (=*Felis pardina*)	Spanish lynx, Iberian lynx	I	2/4/77
L. rufus (=*Felis rufa*) escuinapae	Mexican bobcat	II	7/1/75
Martes flavigula (including *M. gwatkinsi*)	Yellow-throated marten	III (India)	3/16/89
M. foina intermedia	Beech marten	III (India)	3/16/89
Mellivora capensis	Honey badger, Ratel	III (Ghana and Botswana.	2/25/76
Melursus (=*Ursus*) *ursinus*	Sloth bear	I	9/21/88
Mustela altaica	Mountain weasel	III (India)	3/16/89
M. erminea ferghanae	Ermine	*III (India)	3/16/89
M. kathiah	Yellow-bellied weasel	III (India)	3/16/89
M. nigripes	Black-footed ferret	I	7/1/75
M. sibirica	Siberian weasel	III (India)	3/16/89
Nasua narica (=*nasua*)	Common coati, Coatimundi	III (Honduras)	4/13/87
N. nasua solitaria	Coatimundi	III (Uruguay)	4/13/87
Neofelis nebulosa	Clouded leopard	I	7/1/75
Oncifelis (=*Felis*) *geoffroyi*	Geoffroy's cat	I	2/4/77
Oreailurus (=*Felis*) *jacobita*	Andean cat	I	7/1/75
Paguma larvata	Masked palm citet	III (India)	3/16/89
Panthera leo persica	Asiatic lion, Indian lion	I	7/1/75
P. onca	Jaguar	I	7/1/75
P. pardus	Leopard	I	7/1/75
P. tigris	Tiger	I	7/1/75
P. uncia (see *Uncia uncia*)			
Paradoxurus hermaphroditus	Common palm civet	III (India)	3/16/89
P. jerdoni	Jerdon's palm civet	III (India)	3/16/89
+ *Parahyaena brunnea*	Brown hyaena	II	7/1/75
Pardofelis (=*Felis*) *marmorata*	Marbled cat	I	7/1/75
Potos flavus	Kinkajou	III (Honduras)	4/13/87
+ *Prionailurus* (=*Felis*) *bengalensis bengalensis* Bangladesh, India, and Thailand populations).	Leopard cat	I	7/1/75
+ *P. bengalensis bengalensis* (all other populations)	Leopard cat	II	7/1/75
P. planiceps	Flat-headed cat	I	7/1/75
P. rubiginosus =*Felis rubiginosa*) (Indian population)	Rusty-spotted cat	I	2/4/77
Prionodon linsang	Banded linsang	II	7/1/75
P. pardicolor	Spotted linsang	I	7/1/75

Species	Common name	Appendix	First listing date (month/day/year)
Proteles cristatus	Aardwolf	III (Botswana)	4/24/78
Pseudalopex culpaeus	Culpeo fox	II	6/28/79
P. griseus (=*fulvipes*)	Argentine gray fox	II	6/28/79
P. gymnocercus	Pampas fox	II	10/22/87
Pteronura brasiliensis	Giant otter	I	7/1/75
Puma (=*Felis*) *concolor coryi*	Florida panther, Florida puma	I	7/1/75
P. concolor costaricensis	Costa Rican puma	I	7/1/75
P. concolor couguar	Eastern puma, Adirondack cougar	I	7/1/75
Selenarctos thibetanus (see *Ursus thibetanus*)			
Speothos venaticus	Bush dog	I	2/4/77
Tremarctos ornatus	Spectacled bear	I	2/4/77
Uncia uncia	Snow leopard	I	7/1/75
Ursidae spp. (all species in family except those in App. I or with earlier date in App. II; includes Baltic States and former USSR populations).	Bears	II	6/11/92
Ursus americanus	American black bear	II	9/18/91
U. arctos (all European populations except Italian and former USSR populations).	European Brown bear	II	7/29/83
U. arctos (Italian population)	European brown bear	II	7/1/75
U. arctos (all Asian populations, including populations of Iran, Iraq, Syria, and Turkey, except USSR populations and populations subspecies listed in App. I).	Brown bear	II	1/18/90
U. arctos (=*U. arctos pruinosus*) (populations of Bhutan, China, and Mongolia).	Tibetan blue bear	I	7/1/75
U. arctos (all North American populations except Mexican population).	Brown bear, Grizzly	II	7/1/75
U. arctos (=*U. a. nelsoni*) (Mexican population)	Mexican grizzly bear	I	7/1/75
U. arctos isabellinus	Red bear	I	6/28/79
U. (=*Thalarctos*) *maritimus*	Polar bear	II	7/1/75
U. thibetanus (except subspecies listed below)	Asiatic black bear	I	6/28/79
U. thibetanus gedrosianus	Baluchistan black bear	I	2/4/77
Viverra civettina (=*megaspila*)	Malabar large-spotted civet	III (India)	3/16/89
V. zibetha	Large Indian civet	III (India)	3/16/89
Viverricula indica	Lesser oriental civet, Small Indian civet.	III (India)	3/16/89
Vulpes bengalensis	Bengal fox	III (India)	3/16/89
V. cana	Blanford's fox	II	2/4/77
V. vulpes griffithi	Griffith's red fox	III (India)	3/16/89
V. vulpes montana	Montane red fox	III (India)	3/16/89
V. vulpes pusilla (=*leucopus*)	Little red fox	III (India)	3/16/89
V. (=*Fennecus*) *zerda*	Fennec fox	II	4/22/76
Order Pinnipedia:	Seals, Sea lions:		
Arctocephalus spp. (except species listed below)	Southern fur seals	II	2/4/77
A. australis	Southern fur seal	II	7/1/75
A. galapagoensis	Galapagos fur seal	II	7/1/75
A. philippii	Juan Fernandez fur seal	II	7/1/75
A. townsendi	Guadalupe fur seal	I	7/1/75
Mirounga leonina	Southern elephant seal	II	7/1/75
Monachus spp	Monk seals	I	7/1/75
Odobenus rosmarus	Walrus	III (Canada)	11/16/75
Order Proboscidea:	Elephants:		
Elephas maximus	Asian elephant	I	7/1/75
Loxodonta africana	African elephant	I	2/4/77
Order Sierenia:	Dugongs, Manatees:		
Dugong dugon (except for Australian population)	Dugong	I	7/1/75
D. dugon (Australian population)	Dugong	II	7/1/75
Trichechus inunguis	South American manatee, Amazonian manatee.	I	7/1/75
T. manatus	West Indian manatee	I	7/1/75
T. senegalensis	West African manatee	II	7/1/75
Order Perissodactyla:	Odd-toed ungulates:		
Ceratotherium simum cottoni	Northern white rhinoceros	I	7/1/75
+ *C. s. simum* (population of South Africa) (no trade allowed, except for hunting trophies and for the sale of live animals to appropriate and acceptable destinations).	Southern white rhinoceros	II	2/4/77
Dicerorhinus (=*Didermocerus*) *sumatrensis*	Sumatran rhinoceros	I	7/1/75
Diceros bicornis	Black rhinoceros	I	7/1/75
Equus africanus (=*E. asinus*)	African wild ass	I	7/29/83
E. grevyi	Grevy's zebra	I	6/28/79
E. hemionus (except subspecies listed below)	Asian wild ass	II	7/1/75
E. hemionus hemionus	Asian wild ass	I	7/1/75

Species	Common name	Appendix	First listing date (month/day/year)
E. hemionus khur (see *E. onager khur*)			
E. kiang (=*hemionus*) (except subspecies listed below)	Kiang	II	7/1/75
E. kiang khur (see *E. onager khur*)			
E. onager (=*hemionus*) (except subspecies listed below).	Onager	II	7/1/75
E. onager khur	Onager	I	7/1/75
E. przewalskii	Przewalski's horse	I	7/1/75
E. zebra hartmannae	Hartmann's mountain zebra	II	5/28/79
E. zebra zebra	Cape mountain zebra	I	7/1/75
Rhinocerotidae spp. (all species and populations in the family except those in App. II or with earlier date in App. I).	Rhinoceroses	I	2/4/77
Rhinoceros sondaicus	Javan rhinoceros	I	7/1/75
R. unicornis	Great Indian one-horned rhinoceros	I	7/1/75
Tapirus spp. (except for species listed below)	Tapirs	I	7/1/75
T. terrestris	South American tapir	II	7/1/75
Order Artiodactyla:	Even-toed ungulates:		
Addax nasomaculatus	Addax	I	7/1/75
Ammotragus lervia	Barbary sheep, Aoudad	II	4/22/76
Antilocapra americana (Mexican population)	Mexican pronghorn	I	7/1/75
Antilope cervicapra	Blackbuck antelope	III (Nepal)	11/16/75
Axis porcinus annamiticus	Indochina hog deer	I	7/1/75
A. porcinus calamianensis	Calamianes deer	I	7/1/75
A. porcinus kuhli	Kuhl's deer, Bawean hog deer	I	7/1/75
Babyrousa babyrussa	Babirusa	I	7/1/75
Blastocerus dichotomus	Marsh deer	I	7/1/75
Bison bison athabascae	Woods bison	I	7/1/75
Boocercus (see *Tragelaphus*)			
Bos frontalis (see *B. gaurus*)			
B. gaurus	Seladang, Gaur	I	7/1/75
B. grunniens (see *B. mutus*)			
B. mutus	Wild yak	I	7/1/75
B. (=Novibos) sauveli	Kouprey	I	7/1/75
Bubalus arnee (formerly listed as *B. bubalis*, a non-protected, domesticated form)	Water buffalo	III (Nepal)	11/16/75
B. (=Anoa) depressicornis	Lowland anoa	I	7/1/75
B. (=Anoa) mindorensis	Tamaraw	I	7/1/75
B. (=Anoa) quarlesi	Mountain anoa	I	7/1/75
Budorcas taxicolor	Takin	II	8/1/85
Capra falconeri	Markhor	I	7/1/75
Capricornis sumatraensis (see Naemorhedus sumatraensis)			
Catagonus wagneri	Chacoan peccary, Giant peccary	I	10/22/87
Cephalophus dorsalis	Bay duiker	II	7/29/83
C. jentinki	Jentink's duiker	I	7/29/83
C. monticola	Blue duiker	II	7/1/75
C. ogilbyi	Ogilby's duiker	II	7/29/83
C. sylvicultor	Yellow-backed duiker	II	7/29/83
C. zebra	Zebra-banded duiker	II	7/29/83
Cervus dama mesopotamicus (see *Dama mesopotamica*)			
C. duvaucelii	Swamp deer	I	7/1/75
C. elaphus bactrianus	Bactrian deer	II	7/1/75
C. elaphus barbarus	Barbary deer	III (Tunisia)	4/22/76
C. elaphus hanglu	Kashmir stag	I	7/1/75
C. eldii	Eld's brow-antlered deer	I	7/1/75
C. porcinus (see *Axis porcinus*)			
Choeropsis liberiensis (see *Hexaprotodon liberiensis*)			
Dama mesopotamica	Persian fallow deer	I	2/4/77
Damaliscus dorcas dorcas (see *D. pygargus dorcas*)			
D. lunatus	Sassaby antelope, Korrigum	III (Ghana)	2/26/76
D. pygargus dorcas	Bontebok	II	7/1/75
Gazella cuvieri (=*G. gazella cuvieri*)	Mountain gazelle	III (Tunisia)	4/22/76
G. dama	Dama gazelle	I	7/29/83
G. dorcas	Dorcas gazelle	III (Tunisia)	4/22/76
G. leptoceros	Slender-horned gazelle	III (Tunisia)	4/22/76
Hexaprotodon liberiensis	Pygmy hippopotamus	II	7/1/75
Hippocamelus spp	Huemals	I	7/1/75
+Hippopotamus amphibius	Hippopotamus	II	2/26/76
Hippotragus niger variani	Giant sable antelope	I	7/1/75
Hyemoschus aquaticus	Water chevrotain	III (Ghana)	2/26/76
Kobus leche	Lechwe	II	7/1/75

Species	Common name	Appendix	First listing date (month/day/year)
Lama guanicoe	Guanaco	II	5/12/75
Mazama americana cerasina	Red brocket deer	III (Guatemala)	4/23/81
+Megamuntiacus vuquanghensis	Giant muntjac	I	2/16/95
Moschus spp. (all except populations in App. I)	Musk deer	II	2/16/79
Moschus spp. (populations of Afghanistan, Bhutan, India, Myanmar, Nepal, and Pakistan)	Musk deer	I	7/1/75
Muntiacus crinifrons	Black muntjac	I	5/1/85
Naemorhedus baileyi	Goral	I	7/1/75
N. caudatus	Goral	I	7/1/75
N. sumatraensis	Serow	I	7/1/75
N. goral	Goral	I	7/1/75
Nemorhaedus (see Naemorhedus)			
Odocoileus virginianus mayensis	Whitetail deer	III (Guatemala)	4/23/81
Oryx dammah (=O. tao)	Scimitar-horned oryx	I	7/1/75
O. leucoryx	Arabian oryx	I	7/1/75
Ovis ammon (except subspecies listed below)	Argali	II	7/1/75
O. ammon hodgsonii	Tibetan argali	I	7/1/75
O. aries ophion (=O. musimon ophion) (see *O. orientalis ophion*)			
O. canadensis (Mexican population)	Mexican bighorn sheep	II	7/1/75
O. orientalis ophion	Cyprian red sheep	I	7/1/75
O. vignei	Shapo	I	7/1/75
Ozotoceros bezoarticus	Pampas deer	I	7/1/75
Pantholops hodgsonii	Tibetan antelope	I	7/1/75
Pecari tajacu (except populations of the United States)	Collared peccary	II	10/22/87
+Pseudoryx nghetinhensis	Vu Quang ox	I	2/16/95
Pudu mephistophiles	Northern pudu	II	7/1/75
P. puda (=P. pudu)	Pudu	I	7/1/75
Rupicapra pyrenaica (=rupicapra) ornata	Apennian chamois	I	7/1/75
+Saiga tatarica	Saiga antelope	II	2/16/95
Sus salvanius	Pygmy hog	I	7/1/75
Tayassu pecari	White-lipped peccary	II	10/22/87
T. tajacu (see Pecari tajacu)			
Tetracerus quadricornis	Four-horned antelope	III (Nepal)	11/16/75
Tragelaphus (=Taurotragus) eurycerus	Bongo antelope	III (Ghana)	2/26/76
T. spekii	Sitatunga antelope	III (Ghana)	2/26/76
Vicugna vicugna (except populations listed below)	Vicuna	I	7/1/75
+V. vicugna (populations of Paranicota Province Ia. Region of Tarapaca in Chile and all populations of Peru) (export limited to cloth products, wool sheared from live animals, and the Peruvian stock of 3249 kg. extant in November, 1994	Vicuna	II	7/1/75
CLASS AVES:	BIRDS:		
Order Struthioniformes:	Ostriches:		
Struthio camelus (populations of Algeria, Burkina Faso, Cameroon, Central African Republic, Chad, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, and Sudan)	Ostrich	I	7/29/83
Order Rheformes:	Rheas:		
Pterocnemia pennata (see Rhea pennata)			
Rhea americana (all subspecies except that with earlier date in App. II).	Greater rhea, Common rhea	II	7/14/76
R. americana albescens	Greater rhea	II	7/1/75
R. pennata (except subspecies listed below)	Lesser rhea	I	5/28/79
R. pennata garleppi	Lesser rhea	I	7/1/75
R. pennata pennata	Darwin's rhea	I	7/1/75
Order Tinamiformes:	Tinamous:		
Tinamus soliftarius	Solitary tinamou	I	7/1/75
Order Sphenlsoiformes:	Penguins:		
Spheriscus demersus	Jackass penguin, Blackfooted Cape penguin.	II	7/1/75
S. humboldti	Humboldt penguin	I	5/6/81
Order Podicipediformes:	Grebes:		
Podilymbus gigas	Atitlan grebe	I	7/1/75
Order Procellariiformes:	Albatrosses, Shearwaters, Petrels:		
Diomedea albatrus	Short-tailed albatross	I	7/1/75
Order Pelecaniformes:	Tropicbirds, Pelicans, Frigatebirds:		
Fregata andrewsi	Andrew's frigatebird	I	7/1/75
Papasula abbotti	Abbott's booby	I	7/1/75
Pelecanus crispus	Dalmatian pelican	I	7/1/75
Sula abbotti (see Papasula abbotti)			
Order Ciconiiformes:	Herons, Storks, Ibises, Flamingos:		
Ardea goliath	Goliath heron	III (Ghana)	2/26/76

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Balaeniceps rex	Whale-headed stork	II	10/22/87
Bostrychia hagedash	Hadada ibis	III (Ghana)	2/26/76
B. rara	Spotted-breasted ibis	III (Ghana)	2/26/76
Bubulcus (=Ardeika) ibis	Cattle egret	III (Ghana)	2/26/76
Casmerodius (=Egretta) albus	Great white egret	III (Ghana)	2/26/76
Ciconia boyciana	Oriental white stork	I	7/1/75
C. ciconia boycians (see C. boyciana)			
C. nigra	Black stork	II	7/1/75
Egretta garzetta	Little regret	III (Ghana)	2/26/76
Ephippiorhynchus senegalensis	Saddlebill stork	III (Ghana)	2/26/76
Eudocimus ruber	Scarlet ibis	II	10/22/87
Geronticus calvus	Southern bald ibis	II	7/1/75
G. eremita	Northern bald ibis, Hermit ibis	I	6/28/79
Hagedashia hagedash (see Bostrychia hagedash)			
Jabiru mycteria	Jabiru	I	8/1/85
Lampribs rata (see Bostrychia rara)			
Leptoptilos crumeniferus	Marabou stork	III (Ghana)	2/26/76
Mycteria cinerea	Milky wood stork	I	10/22/87
Nipponia nippon	Japanese crested ibis	I	7/1/75
Phoenicopteridae spp. (except species or populations with an earlier date in App. II)	Flamingos	II	7/29/83
Phoenicopterus andinus	Andean flamingo	II	7/1/75
P. chilensis	Chilean flamingo	II	7/1/75
P. jamesi	James flamingo	II	7/1/75
P. ruber ruber	American flamingo	II	6/28/79
Platalea leucorodia	White spoonbill	II	7/1/75
Threskiornis aethiopicus	Sacred ibis	III (Ghana)	2/26/76
Order Anseriformes:	Ducks, Geese, Swans, Screamers:		
Alopochen aegyptiacus	Egyptian goose	III (Ghana)	2/26/76
Anas acuta	Northern pintail	III (Ghana)	2/26/76
+A. aucklandica (=chlorotis,=nesiots)	Brown teal	I	7/1/75
A. bernieri	Madagascar teal	II	7/1/75
A. capensis	Cape wigeon	III (Ghana)	2/26/76
A. chlorotis (see A. aucklandica).			
A. clypeata	Northern shoveler	III (Ghana)	2/26/76
A. crecca	Green-winged teal	III (Ghana)	2/26/76
A. formosa	Baikal teal	II	6/11/92
A. laysanensis (=A. platyrhychos laysanensis)	Laysan duck	I	7/1/75
A. nesiotis (see A. aucklandica)			
A. oustaleti (=A. platyrhynchos oustaleti)	Marianas mallard	I	7/1/75
A. penelope	Europeon wigeon	III (Ghana)	2/26/76
A. querquedula	Garganey	III (Ghana)	2/26/76
Aythya nyroca	White-eyed pochard	III (Ghana)	2/26/76
Branta canadensis leucopareia	Aleutian Canada goose	I	7/1/75
B. ruficollis	Red-breasted goose	II	7/1/75
B. (=Nesochen) sandvicensis	Hawaiian goose, Nene	I	7/1/75
Cairina moschata	Muscovy duck	III (Honduras)	4/13/87
C. scutulata	White-winged duck	I	7/1/75
Coscoroba coscoroba	Coscoroba swan	II	7/1/75
Cygnus melanocorypha	Black-necked swan	II	7/1/75
Dendrocygna arborea	Cuban tree duck, West Indian whistling duck.	II	7/1/75
D. autumnalis	Black-bellied whistling-duck	III (Honduras)	4/13/87
D. Bicolor (=fulva)	Fulvous whistling-duck	III (Ghana and Honduras).	2/26/76
D. viduata	White-faced whistling-duck	III (Ghana)	2/26/76
Nettapus auritus	African pygmy goose	III (Ghana)	2/26/76
Oxyura leucocephala	White-headed duck	II	7/29/83
Plectropterus gambensis	Spur-winged goose	III (Ghana)	2/26/76
Pteronetta hartlaubii	Hartlaub's duck	III (Ghana)	2/26/76
Rhodonessa caryophyllacea	Pink-headed duck	I pe	7/1/75
Sarkidiornis melanotos	Comb duck	II	7/1/75
Order Falconiformes:	Hawks, Falcons, Vultures, Eagles:		
All species except Cathartidae and those species in App. I or with earlier date in App II.	All species except New World vultures.	II	6/28/79
Accipitridae spp. (all South American populations)	Hawks, harriers	II	10/28/76
Accipiter gentilis	Northern goshawk	II	2/4/77
A. gundlachi	Gundlach's hawk	II	2/4/77
A. nisus	European sparrow hawk	II	2/4/77
Aegypius monachus	European black vulture, Cinerous vulture.	II	2/4/77
Aquila spp. (all species except those in App. I or with earlier date in App. II).	Eagles	II	2/4/77

Species	Common name	Appendix	First listing date (month/day/year)
A. adalbert (=A. heliaca adalberti)	Imperial eagle	I	2/4/77
A. chrysaetos	Golden eagle	II	7/1/75
A. heliaca	Imperial eagle	I	2/4/77
Chondrohierax uncinatus wilsonii	Cuban hook-billed kite	I	2/4/77
Circaetus spp	Snake-eagles	II	2/4/77
Circus spp	Harriers	II	2/4/77
Falconidae spp. (all species in family except those in App. I).	Falcons, Caracaras	II	7/1/75
Falco araea	Seychelles kestrel	I	7/1/75
F. jugger	Laggar falcon	I	7/1/75
F. newtoni (Seychelles population) (=*F.newtoni aldabranus*).	Aldabra kestrel	I	7/1/75
F. pelegrinoides (=F. peregrinus pelegrinoides)	Barbary falcon	I	7/1/75
F. peregrinus	Peregrine falcon	I	7/1/75
F. punctatus	Mauritius kestrel	I	7/1/75
F. rusticolus	Gyrfalcon	I	7/1/75
Gymnogyps californianus	California condor	I	7/1/75
Gypaetus barbatus	Lammergeier	II	2/4/77
Gyps fulvus	Griffon viuture	II	2/4/77
Haliaeetus spp. (except species in app. I)	Sea-eagles, Fish-eagles	II	2/4/77
H. albicilla (except subspecies listed below)	White-tailed eagle	I	2/4/77
H. albicilla greenlandicus	Greenland white-tailed sea-agle	I	7/1/75
H. leucocephalus (except subspecies listed below)	Bald eagle	I	2/4/77
H. leucocephalus leucocephalus	Southern bald eagle	I	7/1/75
Harpia harpyja	Harpy eagle	I	7/1/75
Harpyopsis novaeguineae	New Guinea harpy eagle	II	2/4/77
Milvus milvus	Red kite	II	2/4/77
Pandion haliaetus	Osprey	II	2/4/77
Pithecophaga jeffreyi	Monkey-eating eagle	I	7/1/75
Sagittarius serpentarius	Secretary bird	II	2/26/76
Sarcoramphus papa	King vulture	III (Honduras)	4/13/87
Vultur gryphus	Andean condor	I	7/1/75
Order Galliformes:	Pheasants, Curassows, Megapodes, Hoatzin:		
Aburria (see *Pipile*)			
Agelastes meleagrides	White-breasted guineafowl	III (Ghana)	2/26/76
Agricharis ocellata	Ocellated turkey	III (Guatemala)	4/23/81
Arborophila orentialis (=brunneopectus)	Bar-backed partridge, Bare-throated tree-partrige.	III (Malaysia)	11/13/86
A. (=Troplocoperdix) charltonii	Scaly-breasted partridge, Chestnut-breasted tree-partridge.	III (Malaysia)	11/13/86
Argusianus argus	Great argus pheasant	II	7/1/75
Caloperdix oculea	Ferruginous wood-partridge	III (Malaysia)	11/13/86
Catreus wallichi	Cheer pheasant	I	7/1/75
Colinus virginianus ridgwayi	Masked bobwhite	I	7/1/75
Crax aberti	Blue-knobbed curassow	III (Colombia)	9/21/88
C. blumenbachii	Red-billed curassow	I	7/1/75
C. daubentoni	Yellow-knobbed curassow	III (Colombia)	9/21/88
C. Globulosa	Wattled curassow	III (Colombia)	9/21/88
C. mitu mitu (see Mitu mitu mitu)			
C. pauxi (see Pauxi pauxi)			
C. rubra	Great curassow	III (Colombia, Costa Rica, Guatemala, and Honduras)	10/28/76
crossoptilon corssoptilon	White-eared pheasant	I	7/1/75
C. harmani (=C. crossoptilon harmani)	Elwes's eared-pheasant	I	7/1/75
C. mantchuricum	Brown-eared pheasant	I	7/1/75
Gallus sonneratii	Gray jungle fowl	II	7/1/75
Ithaginis cruentus	Blood pheasant	II	7/1/75
Lophophorus impejanus	Himalayan monal	I	7/1/75
L. lhuysii	Chinese monal	I	7/1/75
L. sclateri	Sclater's monal	I	7/1/75
Lophura edwardsi	Edward's pheasant	I	7/1/75
L. erythrophthalma	Crestless fireback	III (Malaysia)	11/13/86
L. ignita	Crested fireback	III (Malaysia)	11/13/86
L. imperialis	Imperial pheasant	I	7/1/75
L. swindhoii	Swinhoe's pheasant	I	7/1/75
Macrocephalon maleo	Maleo megapode	I	7/1/75
Melanoperdix nigra	Black wood-partridge	III (Malaysia)	11/13/86
Mitu mitu mitu	Mitu, Razor-billed curassow	I	7/1/75
Oreonphasis derbianus	Horned guan	I	7/1/75
Ortalis vetula	Plain chachalaca	III (Guataemala, Honduras).	4/23/81

Species	Common name	Appendix	First listing date (month/day/year)
Pauxi pauxi	Northern helmeted curassow	III (Colombia)	9/21/88
Pavo muticus	Green peafowl	II	2/4/77
Penelope albipennis	White-winged guan	I	5/6/81
P. purpurascens	Northern crested guan	III (Honduras)	4/13/87
Penelophia nigra	Black chachalaca, Highland guan	III (Guatemala)	4/23/81
Pipile jacutinga	Black-fronted piping-guan	I	7/1/75
P. pipile pipile	Trinidad white-headed curassow	I	7/1/75
Polyplectron bicalcaratum	Gray peacock-pheasant	II	7/1/75
P. emphanum	Palawan peacock-pheasant	I	7/1/75
P. germaini	Germain's peacock-pheasant	II	7/1/75
P. inopinatum	Rothschild's peacock-pheasant, Mountain peacock pheasant.	III (Malaysia)	11/13/86
P. malacense	Malaysian peacock-pheasant	II	7/1/75
P. schleiemacheri (=*P. malacense schleiermacheri*)	Bornean peacock-pheasant	II	7/1/75
Rhenardia ocellata (=*R. nigrescens*)	Rheinard's crested argus, Crested argus pheasant.	I	11/13/86
Rhizothera longirostris	Long-billed wood-partridge	III (Malaysia)	11/13/86
Rollulus roulroul	Crested wood-partridge, Roulroul, Green-winged wood partridge.	III (Malaysia)	11/13/86
Syrmaticus ellioti	Elliot's pheasant	I	7/1/75
S. humiae	Bar-tailed pheasant	I	7/1/75
S. mikado	Mikado pheasant	I	7/1/75
Tetraogallus caspius	Caspain snowcock	I	7/1/75
T. tibetanus	Tibetan snowcock	I	7/1/75
Tragopan blythii	Blyth's tragopan	I	7/1/75
T. caboti	Cabot's tragopan	I	7/1/75
T. melanocephalus	Western tragopan	I	7/1/75
T. satyra	Satyr tragopan	III (Nepal)	11/16/75
Tympanuchus cupido attwateri	Attwater's greater prairie chicken	I	7/1/75
Order Gruiformes:	Cranes, Rails, Bustards:	.	
Antropoides (see Grus)			
Ardeotis nigriceps	Great Indian bustard	I	7/1/75
Balearica regulorum	Crowned crane	II	7/1/75
Chlamydotis undulata	Houbara bustard	I	7/1/75
Choriotis (see *Ardeotis*)			
Eupodotis bengalensis	Bengal florican	I	7/1/75
Gallirallus australis hectori	Eastern weka rail	II	7/1/75
G. sylvestris	Lord Howe wood rail	I	7/1/75
Gruidae spp. (all species and subspecies except those in App. I and those with earlier date in App. II).	Cranes	II	8/1/85
Grus americana	Whooping crane	I	7/1/75
G. canadensis nesiotes	Cuba sandhill crane	I	7/1/75
G. canadensis pratensis	Florida sandhill crane	II	7/1/75
G. canadensis pulla	Mississippi sandhill crane	I	7/1/75
G. japonensis	Manchurian crane	I	7/1/75
G. leucogeranus	Siberian white crane	I	7/1/75
G. monacha	Hooded crane	I	7/1/75
G. nigricollis	Black-necked crane	I	7/1/75
G. vipio	White-naped crane	I	7/1/75
G. virgo	Demoiselle crane	II	7/29/83
Houbaropsis (see *Eupodotis*)			
Otididae spp. (all species except those in App. I or with earlier date in App. II).	Bustards	II	10/22/87
Otis tarda	Great bustard	II	7/1/75
Pedionomus torquatus	Collared hemipode, Plains wanderer.	II	7/1/75
Rhynochetos jubatus	Kagu	I	7/1/75
Tricholimnas sylvestris (see *Gallirallus sylvestris*)			
Turnix melanogaster	Black-breasted button-quail	II	5/28/79
Order Charadriformes:	Shorebirds, Gulls, Terns, Skimmers, Auks:		
Burhinus bistriatus	Double-striped thick-knee, Mexican stone curlew.	III (Guatemala)	4/23/81
Larus relictus	Relict gull	I	7/1/75
Numenius borealis	Eskimo curlew	I	7/1/75
N. tenuirostris	Slender-billed curlew	I	7/1/75
Tringa guttifer	Nordmann's greenshank	I	7/1/75
Order Columbiformes:	Pigeons, Doves, Sand-grouse:		
Caloenas nicobarica	Nicobar pigeon	I	5/28/79
Columba guinea	Speckled pigeon	III (Ghana)	2/26/76
C. iriditorques	Bronze-necked pigeon, Bronze-naped pigeon.	III (Ghana)	2/26/76

Species	Common name	Appendix	First listing date (month/day/year)
C. livia	Rock dove	III (Ghana)	2/26/76
C. mayeri	Pink pigeon	III (Mauritius)	12/4/75
C. unicincta	African wood pigeon	III (Ghana)	2/26/76
Ducula mindorensis	Mindoro imperial pigeon	I	7/1/75
Gallicolumba luzonica	Bleeding-heart pigeon	II	7/1/75
Goura spp	Crowned pigeons	II	7/1/75
Nesoenas mayeri (see *Columba mayeri*)			
Oena capensis	Namaqua dove, Masked dove	III (Ghana)	2/26/76
Streptopelia decipiens	African mourning dove, Mourning collared dove.	III (Ghana)	2/26/76
S. roseogrisea	African turtle dove, African collared dove.	III (Ghana)	2/26/76
S. semitroquata	Red-eyed dove	III (Ghana)	2/26/76
S. senegalensis	Laughing dove	III (Ghana)	2/26/76
S. turtur	Turtle dove	III (Ghana)	2/26/76
S. vinacea	Vinaceous dove	III (Ghana)	2/26/76
Treron calva	African green pigeon	III (Ghana)	2/26/76
T. waalia	Yellow-bellied green pigeon	III (Ghana)	2/26/76
Turtur abyssinicus	Black-billed wood dove	III (Ghana)	2/26/76
T. afer	Blue-spotted wood dove	III (Ghana)	2/26/76
T. brehmeri	Blue-headed wood dove	III (Ghana)	2/26/76
T. tympanistria	Tambourine dove	III (Ghana)	2/26/76
Order Psittaciformes:	Parrots, Parakeets, Macaws, Lories:		
All species in order except those in App. I or with earlier date in App. II, and except *Melopsittacus undulatus*, *Nymphicus hollandicus*, and *Psittacula krameri*. However, the latter is listed separately in App. III.	All Parrots, Parakeets, Macaws and Lories (not including the Budgerigar, Cockatiel, and Rose-ringed parakeet).	II	6/6/81
Amazona arausiaca	Red-necked parrot	I	6/6/81
A. barbadensis	Yellow-shouldered parrot	I	6/6/81
A. brasiliensis	Red-tailed parrot	I	6/6/81
A. dufresniana rhodocorytha (see *A. Rhodocorytha*)			
A. guildingii	St. Vincent parrot	I	7/1/75
A. imperialis	Imperial parrot, Sisserou	I	7/1/75
A. leucocephala	Cuban parrot	I	7/1/75
A. pretrei	Red-spectacled parrot	I	7/1/75
A. rhodocorytha	Red-browed parrot	I	7/1/75
A. tucumana	Tucuman parrot	I	6/6/81
A. versicolor	St. Lucia parrot	I	7/1/75
A. vinacea	Vinaceous parrot	I	7/1/75
A. vittata	Puerto Rican parrot	I	7/1/75
Andorhynchus glaucus	Glaucous macaw	I	7/1/75
A. hyacinthinus	Hyacinth macaw	I	6/6/81
A. leari	Lear's macaw, Indigo macaw	I	7/1/75
Ara ambigua	Buffon's macaw, Great green macaw.	I	10/28/76
A. glaucogularis	Caninde macaw	I	6/6/81
A. macao	Scarlet macaw	I	10/28/76
A. maracana	Illiger's macaw	I	6/6/81
A. militaris	Military macaw	I	6/6/81
A. rubrogenys	Red-fronted macaw	I	6/6/81
Aratinga guarouba	Golden parakeet	I	7/1/75
Cacatua goffini	Goffin's cockatoo	I	6/6/81
C. haematuropygia	Red-vented cockatoo	I	6/6/81
C. moluccensis	Moluccan cockatoo	I	6/6/81
C. (=*Kakatoe*) *tenuirostris*	Long-billed corella, Slender-billed cockatoo.	II	2/4/77
Calyptorhynchus lathami	Glossy black cockatoo	II	2/4/77
Coracopsis nigra (*Seychelles population*)	Seychelles vasa parrot	II	7/1/75
Cyanoliseus patagonus byroni	Burrowing parakeet	II	6/28/79
Cyanopsitta spixii	Spix's macaw	I	7/1/75
Cyanoramphus auriceps forbesi	Forbes' parakeet, Yellow-fronted parakeet.	I	7/1/75
C. auriceps malherbi	Orange-fronted parakeet	II	7/1/75
C. cookii	Norfolk parakeet	I	7/1/75
C. marlherbi (*see C. auriceps malherbi*)			
C. novaezelandiae	New Zealand parakeet, Red-fronted parakeet.	I	7/1/75
C. unicolor	Antipodes green parakeet	II	7/1/75
Cyclopsitta diophthalma coxeni	Coxen's fig parrot	I	2/4/77
+ Eos histrio	Red and blue lory	I	6/6/81
Eunymphicus cornutus	Horned parakeet	II	7/1/75

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Geopsittacus occidentalis (see *Pezoporus occidentalis*)			
Neophema chrysogaster	Orange-bellied parakeet	I	7/1/75
N. splendida	Scarlet-chested parakeet	II	7/1/75
Northiella haematogaster narethae	Blue-bonnet parrot	II	2/4/77
Ognorhynchus icterotis	Yellow-eared parrot	I	6/6/81
Opopsitta (see *Cyclopsitta*)			
Pezoporus occidentalis	Night parrot, Australian night parrot.	I po	7/1/75
P. wallicus	Ground parrot	I	2/4/77
Pionopsitta pileata	Red-capped parrot, Pileated parrot	I	7/1/75
Poicephalus robustus	Cape parrot	II	7/1/75
Polytelis alexandrae	Princess parrot	II	2/4/77
Probosiger aterrimus	Great black cockatoo, Palm cockatoo.	I	7/1/75
Prospeia personata	Masked shining parrot, Yellow-breasted musk parrot.	II	7/1/75
Psephotus chrysopteryglus	Golden-shouldered parakeet	I	7/1/75
P. dissimilis	Hood parrott	I	7/1/75
P. pulcherrimus	Paradise parakeet	I po	7/1/75
P. haematogaster narethae (see *Northiella*)			
Psittacula echo (=*P. krameri echo*)	Rose-ringed parakeet	I	7/1/75
P. krameri	Ring-neck parakeet	III (Ghana)	2/26/76
+ *Psittacus erithacus princeps*	Principe parrot	II	7/1/75
Pyrrhura cruentata	Blue-throated parakeet, Ochre-marked parakeet.	I	7/1/75
Rhynchopsitta pachyrhyncha	Thick-billed parrot	I	7/1/75
R. terrisi (=*R. pachyrhyncha terrisi*)	Marroon-fronted parrot	I	6/6/81
Strigops habroptilus	Kakapo, Owl parrot	I	7/1/75
Tanygnathus lucionensis	Blue-naped parrot	II	2/4/77
Order Cuculiformes:	Cuckoos, Plantain-eaters, Turacos:		
Corythaeola cristata	Great blue turaco	III (Ghana)	2/4/77
Crinifer piscator	Gray plantain eater	III (Ghana)	2/4/77
Musophaga (=*Tauraco*, =*Gallirex*) *porphyreolopha*	Violet-crested turaco	II	7/1/75
M. violacea	Violet turaco	III (Ghana)	2/4/77
+ *Tauraco spp. (except those with earlier date in App. II or III).*	Turacos, Louries	II	2/16/95
T. corythaix	Knysna turaco	II	2/4/77
T. macrorhynchus	Yellow-billed turaco	II	2/4/77
Order Strigiformes:	Owls:		
All species except those in App. I or with earlier date in App. II.		II	6/26/79
Athene blewitti	Forest little owl, Forest spotted owlet.	I	6/26/79
Bubo ascalaphus	Pharaoh eagle owl	II	2/4/77
B. bengalensis	Rock eagle owl	II	2/4/77
B. bubo	Eurasian eagle owl	II	2/4/77
Mimizuku gurneyi	Giant scops owl	I	7/1/75
Ninox novaeseelandiae undulata	Great hawk-owl	I	2/4/77
N. squamipila natalis	Great hawk-owl, Moluccan hawk-owl.	I	2/4/77
Nyctea scandiaca	Snowy owl	II	2/4/77
Otus gurneyi (see Mimizuku gurneyi)			
O. nudipes newtoni	Virgin Island screech owl	II	7/1/75
Strigidae (all species native to Ghana)	Owls	II	2/26/76
Strix butleri	Hume's wood owl	II	2/4/77
S. nebulosa	Great gray owl	II	11/16/75
Tytonidae (all species native to Ghana)	Barn owls	II	2/26/76
Tyto soumagnei	Madagascar red owl	I	2/4/77
Order Apodiformes:	Swifts, Hummingbirds:		
Glaucis (see *Ramphodon*)			
Ramphodon dohrnii	Hook-billed hermit	I	7/1/75
Trochilidae spp	Hummingbirds	II	10/22/87
Order Trogoniformes:	Trogons:		
Pharomachrus mocinno	Resplendent quetzal	I	7/1/75
Order Coracitiformes:	Hornbills, Kingfishers, Rollers, Bee-eaters, Motmots:		
Aceros spp. (all species except those in App. I or with earlier date in App. II).	Hornbills	II	6/11/92
A. narcondami	Narcondam hornbill	II	7/1/75
A. nipalensis	Rufous-necked hornbill	I	6/11/92
A. subruficolis	Plain-pouched hornbill	I	6/11/92
Anorrhinus (=*Ptilolaemus*) spp	Hornbills	II	6/11/92

Species	Common name	Appendix	First listing date (month/day/year)
Anthracoceros spp	Hornbills, Pied hornbills	II	6/11/92
Buceros spp. (all species and subspecies except those in App. I or with earlier date in App. II).	Giant hornbills	II	6/11/92
B. bicornis	Great hornbill	I	7/1/75
B. hydrocorax hydrocorax	Luzon-Marinduque rufous hornbill	II	7/1/75
B. rhinoceros (except subspecies with earlier date)	Rhinoceros hornbill	II	1/18/90
B. rhinoceros rhinoceros	Malay rhinoceros hornbill	II	7/1/75
B. (=Rhinoplax) Vigil	Helmeted hornbill	I	7/1/75
Penelopides spp	Hornbills	II	6/11/92
Order Piciformes:	Woodpeckers, Toucans, Jacamars, Barbets:		
Baillonius bailloni	Saffron toucanet	III (Argentina)	6/11/92
Campephilus imperialis	Imperial woodpecker	I	7/1/75
Dryocopus javensis richardsi	Tristam's white-bellied woodpecker.	I	7/1/75
Pteroglossus aracari	Black-necked aracari	II	6/11/92
P. castanotis	Chestnut-eared aracari	III (Argentina)	6/11/92
P. viridis	Green aracari	II	6/11/92
Ramphastos dicolorus	Red-breasted toucan	III (Argentina)	6/11/92
R. sulphuratus	Keel-billed toucan	II	4/23/81
R. toco	Toco toucan	II	6/11/92
R. tucanus	Red-billed toucan	II	6/11/92
R. vitellinus	Channel-billed toucan	II	6/11/92
Selenidera maculirostris	Spot-billed toucanet	III (Argentina)	6/11/92
Semnornis ramphastinus	Toucan barbet	III (Colombia)	5/28/89
Order Passeriformes:	Perching birds, Songbirds:		
+ *Agelaius (=Xanthopsar) flavus*	Saffron-cowled blackbird	I	7/14/76
Amadina fasciata	Cut-throat	III (Ghana)	2/26/76
Amandava subflava	Zebra waxbill	III (Ghana)	2/26/76
Amblyospiza albifrons	Grosbeak weaver	III (Ghana)	2/26/76
Anaplectes rubriceps	Red-headed malimbe	III (Ghana)	2/26/76
Anomalospiza imberbis	Parasitic weaver	III (Ghana)	2/26/76
Atrichornis clamosus	Noisy scrub-bird	I	7/1/75
Bebrornis rodericanus	Rodriquez Island warbler	III (Mauritius)	12/4/75
Bubalornis albirostris	Buffalo weaver	III (Ghana)	2/26/76
Carduelis (=Spinus) cucullata	Red siskin	I	7/1/75
C. (=Spinus) yarrellii	Yellow-faced siskin	II	7/1/75
Cephalopterus ornatus	Amazonian umbrellabird	III (Colombia)	9/21/88
C. penduliger	Long-wattled umbrellabird	III (Colombia)	9/21/88
Cotinga maculata	Banded cotinga	I	7/1/75
Cyornis ruckii	Rueck's blue flycatcher, Niltava	II	7/1/75
Dasyornis broadbenti litoralis	Western rufous bristlebird	I pe	7/1/75
D. longirostris (=D. brachypterus longirostris)	Western bristlebird	I	7/1/75
Estrilda astrild	Common waxbill	III (Ghana)	2/26/76
E. caerulescens	Lavender waxbill, Lavender finch.	III (Ghana)	2/26/76
E. melpoda	Orange-cheeked waxbill	III (Ghana)	2/26/76
E. troglodytes	Black-rumped waxbill	III (Ghana)	2/26/76
Euplectes afer	Yellow-crowned bishop	III (Ghana)	2/26/76
E. ardens	Red-collared whydah	III (Ghana)	2/26/76
E. franciscanus	Red bishop, Orange bishop	III (Ghana)	2/26/76
E. hordeaceus	Black-winged red bishop	III (Ghana)	2/26/76
E. macrourus	Yellow-mantled whydah	III (Ghana)	2/26/76
E. orix (see *E. franciscanus*)			
Gracula religiosa	Hill myna	III (Thailand)	6/11/92
Gubernatrix cristata	Yellow cardinal	II	7/14/76
Lagonosticta larvata (see *L. vinacea*)			
L. rara	Black-bellied waxvill	III (Ghana)	2/26/76
L. rubricata	African waxbill	III Ghana)	2/26/76
L. rufopicta	Bar-breasted waxbill	III (Ghana)	2/26/76
L. senegala	Red-billed fire finch, Red-billed waxbill.	III (Ghana)	2/26/76
L. vinacea	Vinaceous waxbill	III (Ghana)	2/26/76
Leucopsar rothschildi	Rothschild's starling, Myna	I	7/1/75
Lichenostomus melanops cassidix	Helmeted honey eater	I	7/1/75
Lonchura bicolor	Black-and-white mannikin	III (Ghana)	2/26/76
L. cantans	White-throated munia, African silverbill.	III (Ghana)	2/26/76
L. cucullata	Bronze mannikin	III (Ghana)	2/26/76
L. fringilloides	Magpie mannikin, Pied mannikin	III (Ghana)	2/26/76
L. malabarica (see *L. cantans*)			
Malimbus cassini	Cassin's malimbe	III (Ghana)	2/26/76
M. malimbicus	Crested malimbe	III (Ghana)	2/26/76

Species	Common name	Appendix	First listing date (month/day/year)
M. nitens	Gray's malimbe	III (Ghana)	2/26/76
M. rubriceps (see *Anaplectes rubriceps*)			
M. rubricollis	Red-headed weaver	III (Ghana)	2/26/76
M. scutatus	Red-vented malimbe	III (Ghana)	2/26/76
Mandingoa nitidula	Green-backed twin spot	III (Ghana)	2/26/76
Meliphaga cassidix (see *Lichenostomus melanops cassidix*)			
Nesocharis capistrata	Gray-headed olive-back	III (Ghana)	2/26/76
Nigrita bicolor	Chestnut-breasted negro-finch	III (Ghana)	2/26/76
N. canicapilla	Gray-headed negro-finch	III (Ghana)	2/26/76
N. fusconota	White-breasted negro-finch	III (Ghana)	2/26/76
N. luteifrons	Pale-fronted negro-finch	III (Ghana)	2/26/76
Niltava (=*Muscicapa*) (see *Cyornis*)			
Ortygospiza atricollis	Common quail-finch	III (Ghana)	2/26/76
Pachyphantes superciliosus	Compact weaver	III (Ghana)	2/26/76
Paradiseidae spp. (all species in family)	Birds of paradise	II	7/1/75
Parmoptila rubrifrons (-*woodhouse*)	Jameson's antpecker, Flowerpecker weaver-finch.	III (Ghana)	2/26/76
Paroaria capitata	Yellow-billed cardinal	II	10/22/87
P. coronata	Red-crested cardinal	II	10/22/87
Passer griseus	Gray-headed sparrow	III (Ghana)	2/26/76
Petronia dentata	Bush petronia	III (Ghana)	2/26/76
Pholidornis rushiae	Tit-hylia	III (Ghana)	2/26/76
Picathartes gymnocephalus	Bare-headed rockfowl, White-necked rockfowl.	I	7/1/75
P. oreas	Gray-necked rockfowl, Red-headed rockfowl.	I	7/1/75
Pitta brachyura nympha (see *P. nympha*)			
P. guajana	Blue-tailed pitta, Branded pitta	II	12/7/87
P. gurneyi	Gurney's pitta	I	12/7/87
P. kochi	Koch's pitta	I	7/1/75
P. nympha	Fairy pitta, Blue-winged pitta	II	7/1/75
Plocepasser superciliosus	Chestnut-crowned sparrow-weaver	III (Ghana)	2/26/76
Ploceus albinucha	White-naped black weaver	III (Ghana)	2/26/76
P. aurantius	Orange weaver	III (Ghana)	2/26/76
P. cucullatus	Black-headed weaver	III (Ghana)	2/26/76
P. heuglini	Heuglin's masked weaver	III (Ghana)	2/26/76
P. luteolus	Little weaver	III (Ghana)	2/26/76
P. melanocephalus	Yellow-backed weaver	III (Ghana)	2/26/76
P. nigerrimus	Viellot's weaver	III (Ghana)	2/26/76
P. nigricollis	Black-necked weaver	III (Ghana)	2/26/76
P. pelzelni	Slender-billed weaver	III (Ghana)	2/26/76
P. preussi	Golden-backed weaver	III (Ghana)	2/26/76
P. superciliosus (see *Pachyphantes superciliosus*)			
P. tricolor	Yellow-mantled weaver	III (Ghana)	2/26/76
P. vitellinus (=*P. velatus*)	Vitelline masked weaver	III (Ghana)	2/26/76
Poephila cincta cincta	Black-throated finch, Parson finch	II	10/17/80
Pseudochelidon sirintarae	White-eyed river martin	I	7/1/75
Pyrenestes ostrinus	Black-bellied seedcracker	III (Ghana)	2/26/76
Pytilia hypogrammica	Yellow-winged phyilia	III (Ghana)	2/26/76
P. phoenicoptera	Red-winged pytilia	III (Ghana)	2/26/76
Quelea erythrops	Red-headed quelea	III (Ghana)	2/26/76
Rupicola spp	Cocks-of-the-rock	II	7/1/75
Serinus canicapillus (=*gularis*)	West African seedeater	III (Ghana)	2/26/76
S. leucopygius	White-rumped seedeater	III (Ghana)	2/26/76
S. mozambicus	Yellow-fronted canary	III (Ghana)	2/26/76
Spermophaga haematina	Blue-bill	III (Ghana)	2/26/76
Sporopipes frontalis	Speckled-fronted weaver	III (Ghana)	2/26/76
Tchitrea (see *Terpsiphone*)			
Terpsiphone bourbonnensis	Coq de Boise, Mascarene paradise flycatcher.	III (Mauritius)	12/4/75
Uraeginthus bengalus	Red-cheeked cordon-bleu	III (Ghana)	2/26/76
Vidua (=*Hypochera*) *chalybeata*	Village indigobird	III (Ghana)	2/26/76
V. interjecta	Uelle paradise whydah	III (Ghana)	2/26/76
V. larvaticola	Bako indigobird	III (Ghana)	2/26/76
V. macroura	Pin-tailed whydah	III (Ghana)	2/26/76
V. orientalis (=*Paradisea*)	Northern paradise whydah	III (Ghana)	2/26/76
V. raricola	Jambandu indigobird	III (Ghana)	2/26/76
V. togoensis	Togo paradise whydah	III (Ghana)	2/26/76
V. wilsoni	Wilson's indigobird	III (Ghana)	2/26/76
Xantopsar (see *Agelaius*)			
Xipholena atropurpurea	White-winged cotinga	I	7/1/75
Zosterops albogularis	White-chested white-eye, Norfolk Island white-eye.	I	7/1/75

Species	Common name	Appendix	First listing date (month/day/year)
CLASS REPTILIA:	REPTILES:		
Order Testudinata:	Turtles, Tortoises:		
Batagur baska	River terrapin, Tuntong	I	7/1/75
Chelonidae spp. (all species in family)	Sea turtles	I	7/1/75
Chersina (=*Testudo*) spp	Bow-spirit tortoises	II	7/1/75
Clemmys insculpta	Wood turtle	II	6/11/92
C. mulenbergi	Bog turtle	I	7/1/75
Dermatemys mawii	Central American river turtle	II	6/6/81
Dermochelys coriacea	Leatherback sea turtle	I	7/1/75
Erymnochelys madagascariensis	Madagascar turtle	II	7/1/75
Geochelone spp. (except species listed below)	Land tortoises	II	7/1/75
G. (=*Testudo*) *nigra* (=*elephantopus*)	Galapagos tortoise	I	7/1/75
G. (*Testudo*) *radiata*	Madagascar radiated tortoise	I	7/1/75
G. (=*Testudo*) *yniphora*	Angulated tortoise	I	7/1/75
Geoclemys (=*Damonia*) *hamiltonii*	Spotted pond turtle	I	7/1/75
Gopherus spp. (except species listed below)	Gopher tortoises	II	7/1/75
G. flavomarginatus	Bolson tortoise	I	7/1/75
Homopus spp	African parrot-beaked tortoises	II	7/1/75
Kachuga tecta	Indian sawback turtle	I	7/1/75
Kinixys spp	Hinged-back tortoise	II	7/1/75
+*Lissemys punctata* (all subspecies except *punctata*)	Indian flap-shell tortoise	II	2/16/95
+*L.p. punctata*	Indian flap-shell tortoise	II	7/1/75
Malacochersus supp	Pancake tortoises	II	7/1/75
Melanochelys (=*Geoemyda*) *tricarinata*	Three-keeled Asian turtle	I	7/1/75
Morenia ocellata	Burmese peacock turtle	I	7/1/75
Pelomedusa subrufa	Helmeted terrapin	III (Ghana)	2/26/76
Peltocephalus dumeriliana	Big-headed Amazon River turtle	II	7/1/75
Pelusios adansonii	Adanson's hinged terapin	III (Ghana)	2/26/76
P. castaneus	Brown hinged terrapin, Swamp hinged terrapin.	III (Ghana)	2/26/76
P. gabonensis	Gabon hinged terrapin	III (Ghana)	2/26/76
P. niger	Black hinged terrapin	III (Ghana)	2/26/76
Podocnemis spp	South American turtles	II	7/1/75
Psammobates (=*Testudo*) *geometricus*	Geometric turtle	I	2/4/77
Pseudemydura umbrina	Short-necked swamp turtle	I	7/1/75
Pyxis spp	Madagascar spider tortoises	II	7/1/75
+*Terrapene* spp. (all species except those in App.I)	Box turtles	II	2/16/95
T. coahuila	Aquatic box turtle	I	7/1/75
Testudinidae spp. (all species except those in App. I or with earlier date in App. II).	Land tortoises	II	2/4/77
Testudo spp. (all species except those in App. I)	Land tortoises	II	7/1/75
+ *T. kleinmanni*	Egyptian tortoise	I	2/4/77
Trionyx ater	Cuatro Cienegas softshell turtle	I	7/1/75
T. gangeticus	Indian softshell turtle	I	7/1/75
T. hurum	Peacock softshell turtle	I	7/1/75
T. nigricans	Black softshell turtle	I	7/1/75
T. triunguis	Three-clawed turtle	III (Ghana)	2/26/76
Order Crocodylia:	Crocodiles, Alligators, Caimans, Gavials:		
Alligatoridae spp. (all species in family except those in App. I or with earlier date in App. II).	Alligators, Caimans	II	2/4/77
Alligator mississippiensis	American aligator	II	7/1/75
A. sinensis	Chinese alligator	I	7/1/75
Caiman crocodilus apaporiensis	apaporis River caiman	I	7/1/75
C. crocodilus crocodilus	common caiman, Spectacled caiman.	II	7/1/75
C. crocodilus fuscus (including *C. crocodilus chiapasius*).	Brown caiman	II	7/1/75
C. crocodilus yacare (=*C. yacare*)	Yacare	II	7/1/75
C. latirostris	Broad-snouted caiman	I	7/1/75
Crocodylidae spp. (all species in family except those in App. I or with earlier date in App. II).	Crocodiles	II	2/4/77
Crocodylus acutus	American crocodile	I	7/1/75
C. cataphractus	African slender-snouted crocodile	I	7/1/75
C. intermedius	Orinoco crocodile	I	7/1/75
C. johnsoni	Johnson's crocodile	II	7/1/75
C. moreletii	Morelet's crocodile	I	7/1/75
C. niloticus (except those populations in App. II)	Nile crocodile	I	7/1/75
+ *C. niloticus* (populations of Madagascar and Uganda subjust to export quotas described by the Secretariat).	Nile crocodile	II	7/1/75

Species	Common name	Appendix	First listing date (month/day/year)
+*C. niloticus* (populations of Botawana, Ethiopia, Kenya, Malawi, Mozambique, South Africa, Zambia, and Zimbabwe subject to ranching provisions).	Nile crocodile	II	7/1/75
+ *C. niloticus* (population of Tanzania subject to ranching provisions and annual quotas described by the Secretariat).	Nile crocodile	II	7/1/75
C. novaeguineae (except subspecies listed below)	New Guinea crocodile, Freshwater crocodile.	II	7/1/75
C. novaeguineae mindorensis	Philipine crocodile	I	7/1/75
C. palustris	Mugger crocodile	I	7/1/75
C. porosus (except populations of Austrialia, Papua New Guinea, and Indonesia).	Saltwater crocodile	I	7/1/75
+*C. porosus* (Austrialia and Paupa New Guinea populations).	Saltwater crocodile	II	7/1/75
+*C. porosus* (Indonesian population subject to ranching provisions).	Saltwater crocodile	II	7/1/75
C. rhombifer	Cuban crocodile	I	7/1/75
C. siamensis	Siamese crocodile	I	7/1/75
Gavialis gangeticus	Gavial, Charial	I	D7/1/75
Melanosuchus niger (except for population of Ecuador).	Black caiman	I	7/1/75
+*M. niger* (population of Ecuador, subject to zero export quotas in 1995 and 1996, followed by annual quotas described by the Secretariat).	Black caiman	II	7/1/75
Osteolaemus tetraspis (except subspecies listed below).	Dwarf crocodile	I	2/4/77
O. tetraspis obsorni	Dwarf crocodile	I	7/1/75
O. tetraspis tetraspis	Dwarf crocodile	I	7/1/75
Paleosuchus trigonatus	Smooth-fronted caiman	II	7/1/75
Tomistoma schlegelii	Tomistoma, False gavial	I	7/1/75
Order Rhynchocephalia:	Tuatara:		
+ *Sphenodon spp*	Tuataras	I	7/1/75
Order Sauria:	Lizards:		
Amblyrhynchus cristatus	Galapagos marine iguana	II	7/1/75
Brachylophus spp	Fiji iguanas	I	5/6/81
Bradypodion spp	Chameleons	II	2/4/77
Chamaeleo spp	Chamaeleons	II	2/4/77
Cnemidophorus hyperythrus	Orange-throated whiptail lizard	II	7/1/75
Conolophus spp. (except species listed below)	Land lizards	II	2/4/77
C. pallidus	Barrington island land lizard	II	7/1/75
C. subcristatus	Galapagos land iguana	II	7/1/75
Cordylus spp	Girdled lizards	II	5/6/81
Corucia zebrata	Prehensile-tailed skink	II	6/11/92
Crocodilurus lacertinus	Dragon lizardet	II	2/4/77
Cyclura spp	Ground iguanas	I	2/4/77
Cyrtodactylus serpensinsula	Serpent Island gecko	II	2/4/77
Dracaena spp	Caiman lizards	II	2/4/77
Gallotia simonyi	Hierro giant lizard	I	10/22/87
Heloderma spp	Beaded lizards, Gila monster	II	7/1/75
Iguana spp	Iguanas	II	2/4/77
Phelsuma spp	Day geckos	II	2/4/77
Phrynosoma coronatum (except subspecies with earlier date in App. II).	Coatal horned lizards	II	6/11/92
P. coronatium blainvillei	San Diego horned lizard	II	7/1/75
Podarcis lilfordi	Lilford's wall lizard	II	10/22/87
P. pityusensis	biza wall lizard	II	10/22/87
Pseudocordylus spp	Crag lizards	II	5/6/81
Sauromalus varius	San Esteban Island chuckwalla	I	5/6/81
Shinisaurus crocodilurus	Chinese crocodile lizard	II	1/18/90
Tupinambis spp	Tegu lizards	II	2/4/77
Uromastyx spp	Spiny-tailed lizards	II	2/4/77
Varanus spp. (all species except those in App. 1)	Monitor lizards	II	7/1/75
V. bengalensis	Indian monitor, Bengal monitor	I	7/1/75
V. flavescens	Yellow monitor	I	7/1/75
V. griseus	Desert monitor	I	7/1/75
V. komodoensis	Komodo Island monitor, Komodo dragon.	I	7/1/75
Order Serpentes:	Snakes:		
Acrantophis spp	Madagascar boas	I	2/4/77
Agkistrodonbilineatus	Cantil	III (Honduras)	4/13/87
Atretium schistosum	Olive keelback water snake	III (India)	2/12/84
Boa (=Constrictor) constrictor	Boa constrictor	II	7/1/75
Boa constrictor occidentalis	Argentine boa constrictor	I	2/4/77

Species	Common name	Appendix	First listing date (month/day/year)
Boidae spp. (all species except those in App. I or with earlier date in App. II).	Boa constrictors, Pythons	II	2/4/77
Bolyeria multocarinata	Round Island boa	I	2/4/77
Bothrops asper	Terciopelo	III (Honduras)	4/13/87
B. nasutus	Rainforest hognosed pit-viper	III (Honduras)	4/13/87
B. nummifer	Jumping pit-viper	III (Honduras)	4/13/87
B. ophryomegas	Slender hognosed pit-viper	III (Honduras)	4/13/87
B. schlegelii	Eyelash palm pit-viper	III (Honduras)	4/13/87
Casarea dussumieri	Round Island boa	I	2/4/77
Cerberus rhynchops	Dog-faced water snake	III (India)	2/12/84
Clelia (=*Pseudoboa*) clelia	Mussurana snake	II	7/1/75
Crotalus durissus	Tropical rattlesnake, Cascabel	III (Honduras)	4/13/87
Cyclagras (=*Hydrodynastes*) gigas	South American false water cobra	II	7/1/75
Elachistodon westermanni	Indian egg-eating snake	II	7/1/75
Epicrates cenchria cenchria	Rainbow boa	II	7/1/75
E. inornatus	Puerto Rican boa	I	2/4/77
E. monensis	Mona boa	I	2/4/77
E. subflavus	Jamaican boa	I	7/1/75
Eunectes notaeus	Yellow anaconda	II	7/1/75
Hoplocephalus bungaroides	Broad-headed snake	II	6/1/85
Micrurus diastema	Atlanta coral snake	III (Honduras)	4/13/87
M. nigrocinctus	Black-banded coral snake	III (Honduras)	4/13/87
Naja naja	Indian cobra	II	2/12/84
Ophiophagus hannah	King cobra	II	2/12/84
Ptyas mucosus	Oriental rat snake, Whipsnake	II	2/12/84
Python spp. (except subspecies listed below)	Pythons	II	7/1/75
P. molurus molurus	Indian python	I	7/1/75
Sanzinia madagascariensis	Tree boa	I	2/4/77
Vipera russellii	Russell's viper	III (India)	2/12/84
V. ursinii (except USSR populations)	Orsini's viper	I	10/22/87
V. wagneri	Wagner's viper	II	6/11/92
Xenochrophis (=*Natrix*) piscator	Checkered keelback water snake	III (India)	2/12/84
CLASS AMPHIBIA:	AMPHIBIANS:		
Order Cudata:	Salamanders:		
Ambystoma dumerilii	Lake Patzcuaro salamander	II	7/1/75
A. mexicanum	Axolotl	II	7/1/75
Andrias spp	Giant salamanders	I	7/1/75
Order Anura:	Frogs,Toads:.		
Atelopus varius zeteki	Panamanian golden frog	I	7/1/75
+Bufo periglenes	Monte Verde golden toad	I	7/1/75
B. retiformis	Sonoran green toad	II	7/1/75
B. superciliaris	Cameroon toad	I	7/1/75
Dendrobates spp	Poison dart frogs, Poison arrow frogs.	II	10/22/87
Dyscophus antongilii	Tomato frog	I	10/22/87
Epipedobates spp. (see Dendrobates spp.)			//
+Mantella aurantiaca	Malagasy golden mantella	II	2/16/95
3Minyobates spp. (see Dendrobates spp.)			//
Nectophrynoides spp	African viviparous toads	I	7/1/75
Phyllobates spp	Poison arrow frogs	II	10/22/87
Rana hexadactyla	Asian bullfrog	II	8/1/85
R. tigerina	Indian bullfrog	II	8/1/85
Rheobatrachus spp	Platypus frog	II	8/1/85
CLASS OSTEICHTHYES:			
Order Ceratodontiformes (=Ceratodiformes):	Lungfishes:		
Neoceratodus forsteri	Australian lungfish	II	7/1/75
Order Coelacanthiformes:	Coelacanth:		
Latimeria chalumnae	Coelacanth, Gombessa	I	7/1/75
Order Acipenseriformes:	Sturgeons:.		
Acipenser brevirostrum	Short-nosed sturgeon	I	7/1/75
A. oxyrhynchus	Atlantic sturgeon	II	7/1/75
A. sturio	Baltic sturgeon	I	7/1/75
Polyodon spathula	Paddlefish	II	6/11/92
Order Osteoglossiformes:	Bonytongues:		
Arapaima gigas	Arapaima	II	7/1/75
+ Scleropages formosus	Asian bonytongue	I	7/1/75
Order Cypriniformes:			
Caecobarbus geertsi	African blind barb, Congo blind barb.	II	6/6/81
Chasmistes cujus	Cui-ui	I	7/1/75
Probarbus jullieni	Ikan temolek, Pla eesok	I	7/1/75
Order Siluriformes:	Catfishes:		
Pangasianodon gigas	Thailand giant catfish	I	7/1/75

Species	Common name	Appendix	First listing date (month/day/year)
Order Perciformes:	Perch-like fishes:		
Cynoscion macdonaldi	Totoaba	I	2/4/77
PHYLUM ARTHROPODA:	ARTHROPODS:		
CLASS Insecta:	Insects:		
Bhutanitis spp	Bhutan glory swallowtails	II	10/22/87
Ornithoptera spp. (all species except those in App. I or with earlier date in App. II).	Birdwing butterflies	II	2/16/79
O. alexandrae	Queen Alexandra's birdwing butterfly.	I	2/4/77
O. allotei	Birdwing butterfly	II	2/4/77
O. chimaera	Birdwing butterfly	II	2/4/77
O. goliath	Birdwing butterfly	II	2/4/77
O. meridionalis	Birdwing butterfly	II	2/4/77
O. paradisea	Paradise birdwing butterfly	II	2/4/77
O. victoriae	Queen Victoria's birdwing butterfly	II	2/4/77
Papilio chikae	Luzon peacock swallowtail	I	10/22/87
P. homerus	Homerus swallowtail	I	10/22/87
P. hospiton	Corsican swallowtail	I	10/22/87
Parnassius apollo	Mountain apollo butterfly	II	2/4/77
P. apollo apollo	Mountain apollo butterfly	II	7/1/75
Teinopalpus spp	Kaiser-I-Hind butterfly	II	10/22/87
Trogonoptera spp	Birdwing butterflies	II	2/16/79
Troides spp	Birdwing butterflies	II	2/16/79
CLASS Arachnida:	Arachnids:		
+ *Brachypelma (=Euathlus)* spp. (except species with earlier date in App. II).	Red-kneed tarantulas	II	2/16/95
B. smithi	Red-kneed tarantula	II	8/1/85
+ *Pandinus dictator*	Emperor scorpion	II	2/16/95
+ *P. gambiensis*	Emperor scorpion	II	2/16/95
+ *P. imperator*	Emperor scorpion	II	2/16/95
PHYLUM ANNELIDA:	ANNELID WORMS:		
CLASS Hirudinea:	Leeches:		
Order Arthynchobdelliformes:	Rhynchobedellids:		
Hirudo medicinalis	Medical leech	II	10/22/87
PHYLUM MOLLUSCA:	MOLLUSCS:		
CLASS Pelecypoda (=*Bivalvia*):	Clams, Mussels:		
Conradilla caelata	Birdwing pearly mussel	I	7/1/75
Cyprogenia aberti	Edible pearly mussel	II	7/1/75
Dromus dromas	Dromedarey pearly mussel	I	7/1/75
Epioblasma (=Dysnomia) (=E. florentina curtisi)	Curtis' pearly mussel	I	7/1/75
E. florentina (=E. florentina florentina)	Yellow-blossom pearly mussel	I	7/1/75
E. sampsoni	Sampson's pearly mussel	I	7/1/75
E. sulcata perobliqua	White cat's paw mussel	I	7/1/75
E. torulosa gubernaculum	Green-blossom pearly mussel	I	7/1/75
E. torulosa rangiana	Tan-blossom mussel	II	7/1/75
E. torulosa torulosa	Tuberculed-blossom pearly mussel.	I	7/1/75
E. turgidula	Turgid-blossom pearly mussel	I	7/1/75
E. walkeri	Brown-blossom pearly mussel	I	7/1/75
Fusconaia cuneolus	Fine-rayed pigtoe mussel	I	7/1/75
F. edgariana	Shiny pigtoe mussel	I	7/1/75
F. subrotunda	Long solid mussel	II	7/1/75
Hippopus spp. (see Tridacnidae spp.)			
Lampsilis brevicula	Ozark lamp pearly mussel	II	7/1/75
L. higginsii	Higgin's eye mussel	I	7/1/75
L. orbiculata orbiculata	Pink musket mussel	I	7/1/75
L. satur	Plain pocketbook mussel	I	7/1/75
L. virescens	Alabama lamp pearly mussel	I	7/1/75
Lexingtonia dolabelloides	Slab-side pearly mussel	II	7/1/75
Plethobasus cicatricosus	White wartyback mussel	I	7/1/75
P. cooperianus	Orange-footed pimpleback mussel	I	7/1/75
Pleurobema clava	Club pearly mussel	II	7/1/75
P. plenum	Rough pigtoe mussel	I	7/1/75
Potamilus (=Proptera) capax	Fat pocketbook mussel	I	7/1/75
Quadrula intermedia	Cumberland monkey-face mussel	I	7/1/75
Q. sparsa	Appalachian monkey-face mussel	I	7/1/75
Toxolasma (=Carunculina) cylindrella	Pale lilliput pearly mussel	I	7/1/75
Tridacna derasa	Giant clam	II	5/29/83
T. gigas	Giant clam	II	5/29/83
Tridacnidae spp. (*includes all species in genera Hippopus* and *Tridacna* except those with earlier date in App. II).		II	8/1/85

Species	Common name	Appendix	First listing date (month/day/year)
Unio (=*Megalonaias*) *nicklíniana*	Nicklin's pearly mussel	I	7/1/75
U. (=*Lampsilis* or *Cyrtonaias*) *tampicoensis tecomatensis*	Tampico pearly mussel	I	7/1/75
Villosa (=*Micromya*) *trabalis*	Cumberland bean mussel	I	7/1/75
CLASS Gastropoda:	Snails:		
Achatinella spp	Oahu tree snails	I	10/22/87
Papustyla (=*Papuina*) *pulcherrima*	Manus Island tree snail	II	7/1/75
Paryphanta spp. (New Zealand species only)	New Zealand amber snails	II	7/1/75
Strombus gigas	Queen conch	II	6/11/92
PHYLUM CNIDARIA (=COELENTERATA):	CORAL-LIKE ANIMALS:		
CLASS Anthozoa:	Corals, Sea anemones:.		
Order Coenothecalia:			
All species in the Order (except those in genus with earlier date).		II	1/18/90
Heliopora spp	Blue corals	II	8/1/85
Order Stolonifera:			
Tubiporidae spp. (all species in family except genus with ealrier date).		II	1/18/90
Tubipora spp	Organ-pipe corals	II	8/1/85
Order Antipatharia:			
All species in the Order		II	6/6/81
Order Scleractinia:			
All species in the Order (except the following genera with earlier date).		II	1/18/90
Acropora spp	Staghorn corals	II	8/1/85
Euphyllia spp	Trumpet corals	II	8/1/85
Favia spp	Brain corals	II	8/1/85
Fungia spp	Mushroom corals	II	8/1/85
Halomitra spp	Bowl corals	II	8/1/85
Lobophyllia spp	Brain corals	II	8/1/85
Merulina spp	Merulinas	II	8/1/85
Pavona spp	Cactus corals	II	8/1/85
Pectinia spp	Lettuce corals	II	8/1/85
Platygyra spp	Brain corals	II	8/1/85
Pocillopora spp	Brush corals	II	8/1/85
Polyphyllia spp	Feather corals	II	8/1/85
Seriatopora spp	Birds nest corals	II	8/1/85
Stylophora spp	Cauliflower corals	II	8/1/85
CLASS Hydrozoa:	Sea ferns, Fire corals, Stinging medusae:		
Order Milleporina (=Athecata):			
Milleporidae spp. (all species in family except genus with earlier date).		II	1/18/90
Millepora spp	Fire corals	II	8/1/85
Order Stylasterina:			
Stylasteridae spp. (all species in family)		II	1/18/90
PLANT KINGDOM:	PLANTS:		
Family Agavaceae:	Agave family:		
Agave arizonica	New River agave	I	7/29/83
A parviflora	Santa Cruz striped agave	I	7/29/83
A. victoriae-reginae	Queen Victoria agave	II	7/29/83
Nolina interrata	Dehesa bear-grass	I	7/29/83
Family Amaryllidaceae:	Amaryllis family:		
Galanthus spp. (and their natural hybrids)	Snowdrops	II	1/18/90
Sternbergia spp	Sternbergias	II	1/18/90
Family Apocynaceae:	Dogbane family:		
Pachypodium spp. (except species listed in App. I)	Pachypodiums	II	7/1/75
+*P. ambongense* (and its natural hybrids)		I	7/1/75
P. baronii (and its natural hybrids)		I	7/1/75
+*P. brevicaule* (and its natural huybrids; no exports of adult plants before tenth Conference of the Parties, ca. March, 1997).		II	7/1/75
P. decaryi (and its natural hybrids)		I	7/1/75
Rauvolfia serpentina (except chemical derivatives)	Snake-root devil-pepper	II	1/18/90
Family Araliaceae:	Ginseng family:		
Panax quinquefolius	American ginseng	II	7/1/75
Family Araucariaceae:	Monkey-puzzle tree family:		
Araucaria araucana (all populations except that of Chile)	Monkey-puzzle tree	II	7/1/75
A. araucana population of Chile)	Monkey-puzzle tree	I	7/1/75
Family Asclepiadaceae:	Milkweed family:		
Ceropegia spp	Ceropegias	II	6/28/79
Frerea indica		II	6/28/79

Species	Common name	Appendix	First listing date (month/day/year)
Family Berberidaceae:			
Podophyllum hexandrum (=*P. emodi*, =*Sinopodophyllum hexandrum*) (except chemical derivatives)	Himalayan may-apple	II	1/18/90
Family Bromeliaceae:	Pineapple family:		
Tillandsia harrisii	Harris tillandsia	II	6/11/92
T. kammii	Kamm tillandsia	II	6/11/92
T. kautskyi	Kautsky tillandsia	II	6/11/92
T. mauryana	Maury tillandsia	II	6/11/92
T. sprengeliana	Sprengel tillandsia	II	6/11/92
T. sucrei	Sucre tillandsia	II	6/11/92
T. xerographica	Xerographic tillandsia	II	6/11/92
Family Byblidaceae:	Byblis family:		
Byblis spp	Byblis, Rainbow plants	II	6/28/79
Family Cactaceae:	Cactus family:		
All species except those in App. I	Cacti	II	7/1/75
Ariocarpus spp. (includes *Neogomesia* sp. and *Roseocactus* spp.).	Living-rock cacti	I	7/1/75
Astrophytum (=*Echinocactus*) *asterias*	Sea-urchin cactus, Star cactus	I	7/1/75
Aztekium ritteri	Aztec cactus	I	7/1/75
Coryphantha (other than *C. werdermannii*) (see Escobaris)			
C. werdermannii	Jabali pincushion cactus	I	7/1/75
Doscocactus spp	Discocacti	I	7/1/75
Disocactus (=*Loberia*, =*Nopalxochia*) *macdougallii*	MacDougall's cactus	I	7/1/75
Echinocereus ferreirianus var. *lindsayi* (=*E. lindsayi*)	Lindsay's hedgehog cactus	I	7/1/75
E. (=*Wilcoxia*) *schmollii*	Lamb's-tail cactus	I	7/1/75
Escorbaria leei (=*E. sneedii* var. *leei*)	Lee pincushion cactus	I	7/1/75
E. minima	Nellie's corycactus	I	7/1/75
E. sneedii	Sneed pincushion cactus	I	7/1/75
Mammillaria pectinifera (=*Solisia pectinata*)	Conchilinque	I	7/1/75
M. solisioides	Pitayita	I	7/1/75
Melocactus conoideus	Conelike Turk's-cap cactus	I	7/1/75
M. deinacanthus	Wonderfully bristled Turk's-cap cactus.	I	7/1/75
M. glaucescens	Wooly waxy-stemmed Turk's-cap cactus.	I	7/1/75
M. paucispinus	Few-spined Turk's-cap cactus	I	7/1/75
Obregonia denegrii	Artichoke cactus	I	7/1/75
Pachycereus (=*Backebergia*) *militaris*	Teddy-bear cactus, Military cap	I	7/1/75
Pediocactus (=*Toumeya*) *bradyi*	Brady's pincushion cactus	I	7/1/75
P. despainii	San Rafael cactus	I	7/1/75
P. (=*Toumeya*) *knowltonii*	Knowlton's cactus	I	7/1/75
P. (=*Toumeya*) *papyracarthus* (see *Sclerocactus papyracanthus*)			
P. paradinei	Houserock Valley cactus	I	7/1/75
P. peeblesianus (=*Toumeya fickeisenii*, =*T. peblesiana*).	Peebles' Navajo cactus	I	7/1/75
P. sileri	Siler's pincushion cactus	I	7/1/75
P. winkleri	Windler's cactus	I	7/1/75
Pelecyphora spp. (includes *Encephalocarpus* sp.)	Hatchet cactus, Pinecone cactus, Peyotillo.	I	7/1/75
Sclerocactus brevihamatus subsq. *tobuschii* (=*Ancistrocactus tobuschii*, =*Echinocactus tobuschii*).	Tobusch fishhook cactus	I	7/1/75
S. (=*Echinomastus*, =*Neolloydia*) *erectocentrus*		I	7/1/75
S. goaucus	Uinta Basin hookless cactus	I	7/1/75
S. (=*Echinomastus*, =*Neolloydia*) *mariposensis*	Mariposa cactus	I	7/1/75
S. mesae-verdae	Mesa Verde cactus	I	7/1/75
S. papyracanthus	Grama-grass cactus	I	7/1/75
S. pubispinus	Great Basin fishhook cactus	I	7/1/75
S. wrightiae	Wright's fishhook cactus	I	7/1/75
Strombocactus disciformis	Disc cactus, Top cactus	I	7/1/75
Turinicarpus spp. (includes Gymnocactus spp., most Normanbokea spp., and *Rapicactus spp.*).	Turbinicarps	I	7/1/75
Uebelmannia spp	Uebelmann cacti	I	7/1/75
Family caryocaraceae:	Souari family:		
Caryocar costaricense	Ajo	II	7/1/75
Family Cephalotaceae:	Austrailian pitcher-plant family:.		
Cephalotus follicularis	West Australian pitcher plant	II	6/28/79
Family compositae (=Asteraceae):	Aster family:.		
Saussurea costus (=lappa)	Costus, Kuth root	I	7/1/75
Family Crassulaceae:	Stonecrop family:		
Dudleya stolonifera	Laguna Beach dudleya	I	7/29/83

Species	Common name	Appendix	First listing date (month/day/year)
D. traskiae	Santa Barbara Island dudleya	I	7/29/83
Family cupressaceae:	Cypress family:		
Fitz-Roya cupressoides	Fitzroya, Alerce	I	7/1/75
Pilgerodendron uviferum	Pilgerodendroni	I	7/1/75
Family Cyatheaceae:	Tree-fern family:		
All speciess in the family except those with earlier date.		II	2/4/77
Cyathea (=Hemitelia) capensis		II	7/1/75
C. dredgei		II	7/1/75
C. mexicana		II	7/1/75
C. (=Alsophila) salvinii		II	7/1/75
Family Cycadaceae:	Cycas family:		
All species in the family except species in App. I		II	2/4/77
Cycas beddomei	Beddome cycad	I	2/4/77
Family Diapensiaceae:	Diapensia family:		
Shortia galacifolia	Oconee bells	II	7/29/83
Family Dicksoniaceae:	Tree-fern family:		
All species in the family		II	2/4/77
Family Didiereaceae:	Alluaudia family:		
All species in the family		II	2/4/77
Family Dioscoreaceae:	Yam family:		
Dioscorea deltoidea	Kniss, Kurta	II	7/1/75
Family Droseraceae:	Sundew family:		
Dionaea muscipula	Venus flytrap	II	6/11/92
Family Ericaceae:	Health family:		
Kalmia cuneata	White wicky	II	7/29/83
Family euphorbiaceae:	Spurge family:		
Euphorbia spp. (excluding non-succulent species) (all species except those in App. I).	Euphorbias	II	7/1/75
E. subgenus Lacanthis dwarf species in Madagascar and their natural hybrids as given below:	Malagasy dwarf euphorbias as shown:		
e. ambovombensis (and its natural hybrids)		I	7/1/75
+ E. cremersii		I	7/1/75
E. cylindrifolia (including subsp. *tuberifera*) (and its natural hybrids).		I	7/1/75
E. decaryi (including var. *capsaintemarienis, E. capsaintemariensis*) (and its natural hybrids).		I	7/1/75
E. francoisil (and its natural hybrids)		I	7/1/75
E. moratii (and its natural hybrids)		I	7/1/75
E. parvicyathophora (and its natural hybrids)		I	7/1/95
E. quartziticola (and its natural hybrids)		I	7/1/95
E. tulearensis (=*E. capstaintemariensis* var. *tulearensis*) (and its natural hybrids).		I	7/1/95
Family Fouquieriaceae:	Ocotillo family:		
Fouquieria columnaris	Boojum tree	II	7/29/83
F. fasciculata	Arbol del barril	I	7/29/83
F. purpusii		I	7/29/83
Family Gnetaceae:	Gnetum family:		
Gnetum montanum		III (Nepal)	11/16/75
Family Juglandaceae:	Walnut family:		
Oreomunnea (=Engelhardia) pterocarpa	Gavilan	II	7/1/75
Family Leguminosae (=Fabaceae):	Pea family:		
Dalbergia nigra	Brazilian rosewood	I	6/11/92
Pericopsis elata (including saw-logs, sawn wood, and veneers, but no other parts or derivatives, i.e., products).	Afrormosia	II	6/11/92
Platymiscium pleiostachyum	Cristobal, Granadillo	II	7/1/75
+Pterocarpus santalinus (only logs, wood-chips, and unprocessed broken material).	Red sandalwood, Redsanders	II	2/16/95
Family Liliaceae:	Lily family:		
Aloe spp. (all except those in App. I, and excluding *A. vera* (=*barbadensis*) except *A. vera var. chinensis*).	Aloes	II	7/1/75
A. albida		I	7/1/75
+A. albiflora		I	7/1/75
+A. alfredii		I	7/1/75
+A. bakeri		I	7/1/75
+A. bellatula		I	7/1/75
+A. calcairophila		I	7/1/75
+A. compressa (incl. var. *rugosquamosa*, var. *schistophila*).		I	7/1/75
+A. delphinensis		I	7/1/75
+A. descoingsii		I	7/1/75
+A. fragilis		I	7/1/75

Species	Common name	Appendix	First listing date (month/day/year)
+*A. haworthioides* (incl. var. *aurantiaca*)		I	7/1/75
+*A. helenae*		I	7/1/75
+*A. laeta* (incl. var. *maniensis*)		I	7/1/75
+*A. parallelifolia*		I	7/1/75
+*A. parvula*		I	7/1/75
A. pillansii	Boomaalwyn	I	7/1/75
A. polyphylla	Spiral aloe	I	7/1/75
+*A. rauhii*		I	7/1/75
+*A. suzannae*		I	7/1/75
A. thorncroftii		I	7/1/75
+*A. versicolor*		I	7/1/75
A. vossii		I	7/1/75
Family Magnoliaceae:	Magnolia family:		
Talauma hodgsonii		III (Nepal)	11/16/75
Family Meliaceae:	Mahogany family:		
Swietenia humilis	Pacific Coast mahogany	II	7/1/75
S. mahagoni (including saw-logs, sawn wood, and veneers, but no other parts or derivatives, i.e., products).	Caribbean mahogany	II	6/11/92
Family Nepenthaceae:	Old World pitcher-plant family:		
Nepenthes spp. (all species except those in App. I)	Tropical pitcher plants	II	10/22/87
N. khasiana	Indian tropical pitcher plant	I	10/22/87
N. rajah	Giant tropical pitcher plant	I	6/6/81
Family Orchidaceae (=Apostasiaceae, Cypripediaceae):	Orchid family:.		
All species except those in App. I	Orchids	II	7/1/75
Cattleya trianae	Christmas orchid	I	7/1/75
+ *Dendrobium cruentum*		I	7/1/75
Laelia jongheana		I	7/1/75
L. lobata		I	7/1/75
Paphiopedilum spp	Asian tropical lady's slippers	I	7/1/75
Peristeria elata	Holy Ghost, Dove orchid	I	7/1/75
Phragmipedium spp. (includes *Mexipedium* sp.)	New World tropical lady's slippers	I	7/1/75
Renanthera imschootiana		I	7/1/75
Vanda coerulea	Blue vanda	I	7/1/75
Family Palmae (=Arecaceae):	Palm family:		
Chrysalidocarpus decipiens		II	2/4/77
Neodypsis decaryi	Triangle palm	II	7/1/75
Family Papaveraceae:	Poppy family:		
Meconopsis regia		III (Nepal)	11/16/75
Family Pinaceae:	Pine family:		
Abies guatemalensis	Guatemalan fir	I	7/1/75
Family Podocarpaceae:	Podocarp family:		
Podocarpus nerifolius		III (Nepal)	11/16/75
P. parlatorei	Parlatore's podocarp, Monteromero.	I	7/1/75
Family Podophyllaceae (see Berberidaceae)			
Family Portulacaceae:	Portulaca family:		
Anacampseros spp		II	7/1/75
Lewisia cotyledon	Siskiyou lewisia	II	7/29/83
L. maguirei	Maguire's lewisia	II	7/29/83
L. serrata	Saw-toothed lewisia	II	7/29/83
L. tweedyi	Tweedy's lewisia	II	7/29/83
Family Primulaceae:	Primrose family:		
Cyclamen spp	Cyclamens	II	7/1/75
Family Proteaceae:	Protea family:		
Orothamnus zeyheri	Marsh-rose	I	7/1/75
Protea odorata	Ground-rose	I	7/1/75
Family Rosaceae:	Rose family:		
+ *Prunus africana*	African cherry	II	2/16/95
Family Rubiaceae:	Coffee family:		
Balmea stormiae	Ayuque	I	7/1/75
Family Sarraceniaceae:	New World pitcher-plant family:		
Darlingtonia californica	Western pitcher plant, Cobra-lily	II	6/6/81
Sarracenia spp. (all species and natural hybrids except species in App. I).	Trumpet pitcher plants	II	10/22/87
S. alabamensis subsp. *alabamensis* (=*S. rubra* subsp. *alabamensis*).	Alabama canebrake pitcher plant	I	6/6/81
S. jonesii (=*S. rubra* subsp. *jonesii*)	Mountain sweet pitcher plant	I	6/6/81
S. oreophila	Green pitcher plant	I	6/6/81
Family Stangeriaceae:	Stangeria family:		
Stangeria eriopus (=*paradoxa*)	Stangeria, Fern-leafed cycad	I	7/1/75
Family Taxaceae:	Yew family:		
+*Taxus wallichiana* (=*T. baccata* subsp. *Wallichiana*) (except finished pharmaceutical products).	Himalayan yew	II	2/16/95

Species	Common name	Appendix	First listing date (month/day/year)
Family Tetracentraceae:	Tetracentron family:		
Tetracentron sinense	Tetracentron	III (Nepal)	11/16/75
Family Theaceae:	Tea family:		
Camellia chrysantha	Yellow-flowered camellia, Jinhuacha.	II	8/1/85
Family Thymelaeaceae (=Aquilariaceae):	Mezereon family:		
+*Aquilaria malaccensis*	Agarwood, Aloewood	II	2/16/95
Family Welwitschiaceae:	Welwitschia family:		
Welwitschia mirabilis (=*bainesii*)	Welwitschia	II	7/1/75
Family Zamiaceae:	Cycad family:		
All species except those in App. I		II	2/4/77
Ceratozamia spp	Ceratozamias, Horncones	I	2/4/77
Chigua spp		I	2/4/77
Encephalartos spp	Bread palms, African cycads	I	7/1/75
Microcycas calocoma	Palma corcho, Microcycas	I	7/1/75
Family Zingiberaceae:	Ginger family:		
Hedychium philippinense	Philippine garland flower	II	7/1/75
Family Zygophyllaceae:	Creosote-bush family:		
Guaiacum officinale	Commoner lignum vitae	II	6/11/92
G. sanctum	Holywood lignum vitae	II	7/1/75

Dated: September 25, 1995.

George T. Frampton,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 091995B]

Groundfish of the Gulf of Alaska; Pollock in Statistical Area 62 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 62 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the fourth quarterly allowance of total allowable catch (TAC) for pollock in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), October 4, 1995, until 12 midnight, A.l.t, December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The 1995 pollock TAC in Statistical Area 62 was established by the Final 1995 Harvest Specifications of Groundfish (60 FR 8470, February 14, 1995) as 15,310 metric tons (mt), determined in accordance with § 672.20(a)(2)(iv). As of September 2, 1995, the remaining pollock TAC for Statistical Area 62 is 3,124 mt. The fourth quarterly allowance of the TAC for Statistical Area 62 will become available at 12 noon, A.l.t., October 1, 1995, pursuant to § 672.20(a)(2)(iv).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the 1995 fourth quarterly allowance of pollock TAC in Statistical Area 62 soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 2,742 mt after determining that 382 mt will be taken as incidental catch in directed fishing for other species in Statistical Area 62 of the GOA. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 62, effective from 12 noon, A.l.t., October 4, 1995, until 12 midnight, A.l.t., December 31, 1995.

After the effective date of this closure, the maximum retainable bycatch amounts at § 672.20(g) apply at any time during a fishing trip.

Classification

This action is taken under 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 25, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–24178 Filed 9–25–95; 4:38 pm]

BILLING CODE 3510–22–F

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 092195A]

Groundfish of the Gulf of Alaska; Shortraker/Rougheye Rockfish Species Group in the Central Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of the shortraker/ rougheye rockfish species group in the Central Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catches of the shortraker/rougheye rockfish species group in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the total allowable catch (TAC) specified for the shortraker/rougheye rockfish species group in the Central Regulatory Area of the GOA has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), October 1, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii), the TAC for the shortraker/rougheye rockfish species group in the Central Regulatory Area of the GOA was established by the Final 1995 Harvest Specifications of Groundfish (60 FR 8470, February 14, 1995), as 1,210 metric tons.

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(c)(3), that the TAC for the shortraker/rougheye rockfish species group in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of the shortraker/rougheye rockfish species group in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 672.20(e).

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 25, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–24177 Filed 9–25–95; 4:38 pm]

BILLING CODE 3510–22–F

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50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 091995C]

Groundfish of the Gulf of Alaska; Pollock in Statistical Area 63 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 63 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the fourth quarterly allowance of the total allowable catch (TAC) for pollock in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), October 4, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The 1995 pollock TAC in Statistical Area 63 was established by the Final 1995 Harvest Specifications of Groundfish (60 FR 8470, February 14, 1995) as 16,310 metric tons (mt), determined in accordance with § 672.20(a)(2)(iv). As of September 2, 1995, the remaining pollock TAC for Statistical Area 63 is 3,392 mt. The fourth quarterly allowance of the TAC for Statistical Area 63 will become available at noon, October 1, 1995, pursuant to § 672.20(a)(2)(iv).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the fourth quarterly allowance of pollock TAC in Statistical Area 63 soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 2,984 mt after determining that 408 mt will be taken as incidental catch in directed fishing for other species in Statistical Area 63 of the GOA. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 63, effective from 12 noon, A.l.t., October 4, 1995, until 12 midnight, A.l.t., December 31, 1994.

After the effective date of this closure, the maximum retainable bycatch amounts at § 672.20(g) apply at any time during a fishing trip.

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 25, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–24187 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–22–F

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50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 081595B]

Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Change in Assumed Pacific Halibut Discard Mortality Rate

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Change in assumed Pacific halibut discard mortality rate.

SUMMARY: NMFS announces a reduction of the Pacific halibut discard mortality rate assumed for the 1995 hook-and-line Pacific cod fishery in the Bering Sea and Aleutian Islands management area (BSAI) from 12.5 percent to 11.5 percent. This action is necessary to implement the intent of the North Pacific Fishery Management Council (Council) to assess discard mortality rates observed in this fishery during the first half of 1995 and, if warranted, adjust the 12.5 assumed rate specified for this fishery to reflect more closely the 1995 observed rate.

EFFECTIVE DATE: September 28, 1995.

FOR FURTHER INFORMATION CONTACT: Susan Salveson, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS, in consultation with the Council, annually establishes Pacific halibut bycatch allowances for specified BSAI groundfish fisheries (§ 675.21(b)). The Director, NMFS, Alaska Region, monitors each fishery's halibut bycatch allowance using assumed discard mortality rates that are based on the best information available. NMFS published the 1995 halibut bycatch mortality allowances and assumed discard mortality rates in the **Federal Register** on February 14, 1995 (60 FR 8479), as part of the final 1995 specifications of groundfish and associated management measures.

On August 22, 1995, NMFS published in the **Federal Register** a proposed change to the halibut discard mortality rate specified for the 1995 Pacific cod hook-and-line gear fishery (60 FR 43579). Comments on the proposed change were invited through September 5, 1995.

The proposed action was based on the results of a mid-year analysis of 1995 observed halibut discard mortality rates that was conducted by the International Pacific Halibut Commission (IPHC). The results of this analysis indicated that a halibut discard rate of 11.5 percent is

more appropriate in estimating halibut bycatch mortality for the 1995 BSAI hook-and-line gear fishery for Pacific cod than the 12.5 percent rate established in the final 1995 groundfish specifications (February 14, 1995, 60 FR 8479).

At its June 1995 meeting, the Council reviewed the IPHC's analysis and recommended that NMFS take appropriate action to reduce the halibut discard mortality rate specified for the BSAI Pacific cod hook-and-line gear fishery. A fuller discussion of the IPHC's analysis and justification for the proposed reduction in this discard mortality rate assumption was presented in the August 22, 1995, **Federal Register** publication of the proposed change.

Upon reviewing the reasons for the proposed change to the halibut discard mortality rate specified for the BSAI Pacific cod fishery and public comments received on this action, NMFS revises Table 9 of the final 1995 groundfish specifications published February 14, 1995 (60 FR 8479), as follows:

TABLE 9.—ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES DURING 1995

	Assumed mortality (percent)
Hook-and-Line Gear Fisheries:	
Rockfish	24.0
Pacific cod	11.5
Greenland turbot	19.0
Sablefish	17.0
Trawl Gear Fisheries:	
Midwater pollock	89.0
Non-pelagic pollock	77.0
Yellowfin sole	76.0
Rock sole, flathead sole, other flatfish	75.0
Rockfish	69.0
Pacific cod	65.0
Atka mackerel	59.0
Arrowtooth	49.0
Greenland Turbot	48.0
Pot Gear Fisheries:	
Pacific cod	8.0

NMFS will recalculate the 1995 halibut bycatch mortality for the BSAI Pacific cod hook-and-line gear fishery using the 11.5 percent assumed discard mortality rate.

Response to Comments

One letter was received within the comment period that ended September 5, 1995. A summary of comments of the proposed action and NMFS's response follows.

Comment. An adjustment of the halibut discard mortality rate assumption for the BSAI Pacific cod hook-and-line gear fishery from 12.5 percent to 11.5 percent is appropriate based on the IPHC analysis of 1995 observer data. This action would encourage industry pursuit of further conservation efforts to reduce halibut mortality in the hook-and-line gear fisheries.

Response. NMFS concurs and has adjusted the halibut discard mortality rate specified for the BSAI Pacific cod hook-and-line gear fishery accordingly.

Classification

This action is authorized under 50 CFR 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 22, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–24188 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–22–W

Proposed Rules

Federal Register
Vol. 60, No. 189
Friday, September 29, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ANM–16]

Proposed Amendment of Class E Airspace; Ogden, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Ogden, Utah, Class E airspace to accommodate new holding fixes for air traffic associated with the future commissioning of the new runway at Salt Lake City International Airport, Salt Lake City, Utah. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before November 15, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 95–ANM–16, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: James Riley, ANM–537, Federal Aviation Administration, Docket No. 95–ANM–16, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone number: (206) 227–2537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–ANM–16." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at Ogden, Utah, to accommodate holding fixes for air traffic associated with the future commissioning of the new runway at Salt Lake City International Airport. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp. p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR part 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the Earth.

* * * * *

ANM UT E5 Ogden, UT [Revised]

Ogden-Hinckley Field, UT
(Lat. 41°11'46"N, long. 112°00'44"W)
Ogden VORTAC
(Lat. 41°13'27"N, long. 112°05'54"W)

That airspace extending upward from 700 feet above the surface bounded on the north by lat. 41°27'00"N, on the east by long. 111°55'03"W, on the south by lat. 41°00'00"N, on the west by long. 112°22'03"W, and within 4 miles southwest and 8.3 miles northeast of the Ogden VORTAC 316° radial extending from the VORTAC to 16.1 miles northwest of the VORTAC; that airspace extending upward from 1,2000 feet above the surface bounded on the east by long. 111°50'03"W, on the south by lat. 41°00'00"N, on the west by long, 112°45'03"W, and on the north by the south boundary of V–288, that airspace west of Ogden bounded on the south and west by the Wendover Airport, UT, Class E airspace area, on the north by V–6 and on the east by long. 112°45'03"W, that airspace west of Ogden bounded on the east by long. 112°45'03"W, on the south by V–6 and on the north by V–288, that airspace northwest of Ogden within 8.7 miles southwest of the Ogden VORTAC 316° radial extending from the north boundary of V–288 to 54.9 miles nowthwest of the VORTAC, that airspace northwest of Ogden bounded on the southwest by V–101, on the northwest by V–142–465, and on the east by V–257, that airspace north of Ogden within 8.7 miles west and 6.1 miles east of Ogden VORTAC 345° radial extending from the north boundary of V–288 to 36.6 miles north of the VORTAC, excluding that airspace within the 1,200-foot floor of the Logan, UT, Class E airspace area; that airspace east of Ogden extending upward from 10,500 feet MSL bounded on the north by V–288, on the south by V–6 and on the west by long. 111°50'03"W; and that airspace bounded on the north by V–6, on the southeast by V–32, on the south by lat. 41°00'00"N, and on the west by long. 111°50'03"W, that airspace extending upward from 8,500 feet MSL bounded on the north by the intersection of V–484 and V–465, east along V–465 to V–101, southeast along V–101 to V–288, west along V–288 to V–484, northwest along V–484 to the point of beginning, excluding the 1,200-foot floor of the Ogden-Hinckley, UT, Class E airspace area and that airspace within the confines of Federal airways.

* * * * *

Issued in Seattle, Washington, on August 28, 1995.

Helen Fabian Parke,

Manager, Air Traffic Division, Northwest Moutain Region.

[FR Doc. 95–24283 Filed 9–28–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Ch. VII

[Docket No. 950920234–5234–01]

RIN 0694–XX02

Request for Comments on Effects of Foreign Policy-Based Export Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Request for comments on foreign policy-based export controls.

SUMMARY: The Bureau of Export Administration (BXA) is reviewing the foreign policy-based export controls in the Export Administration Regulations to determine whether they should be modified, rescinded or extended. To help make these determinations, BXA is seeking comments on how existing foreign policy-based export controls have affected exporters and the general public.

Section 6 of the Export Administration Act of 1979, as amended (EAA), requires a report to Congress whenever foreign policy-based export controls are extended. Although the EAA expired on August 20, 1994, the President, invoking the International Emergency Powers Act (IEEPA), continued in effect the export control system in place under the provisions of the Act and the Export Administration Regulations, to the extent permitted by law, in Executive Order 12924 of August 19, 1994 and Notice 42767 of August 15, 1995. Under a policy of conforming actions under the Executive Order to those under the EAA, the Department of Commerce, insofar as appropriate, is following the provisions of section 6 in reviewing foreign policy-based export controls and requesting comments on such controls.

DATES: Comments must be received by October 30, 1995, to assure full consideration in the formulation of export control policies as they relate to foreign policy-based controls.

ADDRESSES: Written comments (three copies) should be sent to Sharron Cook, Regulatory Policy Division (Room 2096), Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Anita McNamee, Foreign Policy Division, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482–4252. Copies of the current 1995 Annual Foreign Policy Report to the Congress can also be requested.

SUPPLEMENTARY INFORMATION: The current foreign policy controls maintained by the Bureau of Export Administration (BXA) are set forth in the Export Administration Regulations (EAR), Parts 776 (Special Commodity Policies and Provisions), 778 (Proliferation Controls), and 785 (Special Country Policies and Provisions). These controls apply to: supercomputers (§ 776.11); crime control and detection commodities (§ 776.14); regional stability commodities and equipment (§ 776.16); equipment and related technical data used in the design, development, production, or use of missiles capable of delivering nuclear weapons (§ 778.7); chemical precursors and biological agents, associated equipment, technical data, and software related to the production of chemical and biological agents (§ 778.8); activities of U.S. persons in transactions related to missile technology or chemical or biological weapons proliferation in named countries (§ 778.9); embargoed countries (§ 785.1); countries designated as supporters of acts of international terrorism (§ 785.4(d)); and, Libya (§ 785.7). Attention is also given in this context to the controls on nuclear-related commodities and technical data (§ 778.2), although they are not foreign policy-based controls in the exact sense.

Effective January 21, 1995, the Secretary of Commerce, on the recommendation of the Secretary of State, extended for one year all foreign policy controls then in effect.

To assure maximum public participation in the review process, comments are solicited on the extension or revision of the existing foreign policy controls for another year. Among the criteria the Departments of Commerce and State consider in determining whether to continue or revise U.S. foreign policy controls are the following:

1. The likelihood that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

2. Whether the foreign policy purpose of such controls can be achieved through negotiations or other alternative means;

3. The compatibility of the controls with the foreign policy objectives of the United States and with overall United States policy toward the country subject to the controls;

4. The reaction of other countries to the extension of such controls by the

United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or be counterproductive to United States foreign policy interests;

5. The effect of the controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology, or the economic well-being of individual United States companies and their employees and communities does not exceed the benefit to United States foreign policy objectives; and

6. The ability of the United States to enforce the controls effectively.

BXA is particularly interested in the experience of individual exporters in complying with the proliferation controls, with emphasis on economic impact and specific instances of business lost to foreign competitors. BXA is also interested in comments relating to the effects of foreign policy controls on exports of replacement and other parts.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BXA in reviewing the controls and developing the report to Congress.

BXA will consider requests for confidential treatment. The information for which confidential treatment is requested should be submitted to BXA separate from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information." BXA will either accept the submission in confidence, or if the submission fails to meet the standards for confidential treatment, will return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information accepted by BXA as confidential will be protected from public disclosure to the extent permitted by law. Communications between agencies of the United States Government or with foreign governments will not be made available for public inspection.

All other information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, BXA requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

The public record concerning these comments will be maintained in the Freedom of Information Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about inspection and copying of records at this facility may be obtained from Henry Gaston, BXA Freedom of Information Officer, at the above address or by calling (202) 482–5653.

Dated: September 26, 1995.

Sue E. Eckert,

Assistant Secretary for Export Administration

[FR Doc. 95–24385 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[EE–45–93]

RIN 1545–AR67

Electronic Filing of Form W–4; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the electronic filing of Form W–4, Employee's Withholding Allowance Certificate, which were published on December 21, 1994.

DATES: The public hearing will be held on Tuesday, November 7, 1995, beginning at 10:00 a.m. Requests to speak and outlines of oral comments must be received by Tuesday, October 17, 1995.

ADDRESSES: The public hearing will be held in the IRS Auditorium, Seventh floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:DOM:CORP:R [EE–45–93], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Employment Tax Regulations (26 CFR part 31) under section 3402 of the Internal Revenue Code. A withdrawal of notice of proposed rulemaking and a notice of proposed rulemaking by cross reference to temporary regulations was published in the **Federal Register** on Wednesday, December 21, 1994 (59 FR 65740).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Tuesday, October 17, 1995, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95–24222 Filed 9–28–95; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2510

Proposed Regulation for Plans Established or Maintained Pursuant to Collective Bargaining Agreements Under Section 3(40)(A)

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of extension of comment period.

SUMMARY: This document extends the comment period for the proposed rule under Title I of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. 1001–1461 (the Act), relating to plans established or maintained pursuant to collective bargaining agreements for purposes of section 3(40) of the Act, 29 U.S.C. 1002(40). The proposed rule was set forth in a notice of proposed rulemaking published in the **Federal Register** at 650 FR 39208 (August 1, 1995).

DATES: The comment period for this proposed rule is extended through November 16, 1995.

ADDRESSES: Written comments (preferably three copies) concerning the proposed rule should be submitted to: Pension and Welfare Benefits Administration, Room N–5669, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Proposed Regulation Under Section 3(40). All submissions will be open to public inspection at the Public Documents Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mark Connor, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Rm N–5669, 200 Constitution Avenue NW., Washington, D.C. 20210 (telephone (202) 219–8671) or Cynthia Caldwell Weglicki, Office of the Solicitor, Plan Benefits Security Division, U.S. Department of Labor, Rm N–4611, 200 Constitution Avenue NW., Washington, D.C. 20210 (telephone (202) 219–4592). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On August 1, 1995, the Department of Labor (the Department) published a notice of proposed rulemaking in the **Federal Register** (60 FR 39208) regarding plans established or maintained pursuant to collective bargaining agreements for purposes of section 3(40) of the Act. In that notice the Department invited all interested persons to submit written comments concerning the proposed rule on or before October 2, 1995.

The Department has received requests from some members of the public for additional time to prepare comments due to the complexity of the issues involved in the proposed rule, and the Department believes that it is appropriate to grant such additional time. Accordingly, this notice extends the comment period during which comments on the proposed rule may be submitted through November 16, 1995.

Notice of Extension of Comment Period

Notice is hereby given that the comment period for the proposed rule relating to plans established or maintained pursuant to collective bargaining agreements for purposes of section 3(40) of the Act (proposed at 60 FR 39208, August 1, 1995) is hereby extended through Thursday, November 16, 1995.

Signed at Washington, DC, this 26th day of September 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–24253 Filed 9–28–95; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Cape Cod National Seashore Off-Road Vehicle Use Negotiated Rulemaking Advisory Committee

AGENCY: National Park Service.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (5 U.S.C., Appendix), that a meeting of the Cape Cod National Seashore Off-Road Vehicle Use Negotiated Rulemaking Advisory Committee will be held on Thursday and Friday, October 12 and 13, 1995.

DATES: The Committee members will meet at 9 a.m. at the Sheraton Eastham, Route 6, Eastham, MA for the second of three, two-day meetings which will be held for the following reasons:

October 12, 1995—Thursday
1. Discussion of Proposed Agenda
2. Review and Discussion of Proposed Draft Rule
3. Public Participation Period
4. Adjournment

October 13, 1995—Friday
1. Review and Discussion of Proposed Draft Rule
2. Public Participation Period
3. Adjournment

FOR FURTHER INFORMATION CONTACT: Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663, 508–349–3785 Ext 203.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. It is expected that 75 persons will be able to attend the meeting in addition to the Committee members.

The Committee was established pursuant to the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561–570). The purpose of the Committee is to advise the National Park Service with regard to proposed rulemaking governing off-road vehicle use at Cape Cod National Seashore.

Interested persons may make oral/written presentations to the Committee during the business meeting or file written statements. Such presentations may be made to the Committee during the Public Participation Period the day of the meeting, or in writing to the Park Superintendent at least seven days prior to the meeting.

Robert W. McIntosh,

Acting, Deputy Field Director, Northeast Area.

[FR Doc. 95–24401 Filed 9–27–95; 11:50 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[OR–A–95–01b; FRL–5302–2]

Approval and Promulgation of Definition of Areas for Air Quality Planning Purposes; Oregon-Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the separation of the Portland, Oregon—Vancouver, Washington interstate carbon monoxide (CO) nonattainment area into two distinct nonattainment areas. The Oregon Department of Environmental Quality (ODEQ) has submitted sufficient technical documentation to adequately assure EPA that Vancouver and Portland are two separate CO airsheds. In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action.

DATES: Comments on this proposed rule must be received in writing by October 30, 1995.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (AT–082), Air Programs Section, at the EPA Regional Office listed below.

Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101.

The Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Christi Lee, Air Programs Branch (AT–082), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–1814.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: September 22, 1995.

Carol M. Browner,

U.S. EPA Administrator.

[FR Doc. 95–24040 Filed 9–28–95; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Part 180

[PP 5E4464/P629; FRL–4973–7]

RIN 2070–AC18

Linuron; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to increase the established tolerance for residues of the herbicide linuron in or on the raw agricultural commodity asparagus. The proposed regulation to increase the maximum permissible level for residues of linuron was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4) pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

DATES: Comments, identified by the document control number, [PP 5E4464/P629], must be received on or before October 30, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Comments and data may also be submitted to OPP by sending electronic mail (e-mail) to:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 5E4464/P629]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the "SUPPLEMENTAL INFORMATION" section of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information." CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted a pesticide petition (PP 5E4464) to EPA on behalf of the IR-4 Agricultural Experiment Stations of California, Indiana, Michigan, and New Jersey. The petition requests that the Administrator, pursuant to section 408(e) of the FFDCA, 21 U.S.C. 346a(e), amend 40 CFR 180.184 by increasing the established tolerance for residues of the herbicide linuron [3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea] in or on the raw agricultural commodity asparagus from 3.0 parts per million (ppm) to 7.0 ppm. IR-4 proposed the increased tolerance for asparagus in response to the reregistration eligibility review and decisions on the pesticide case linuron, which was completed by EPA on April 28, 1995. The Reregistration Eligibility Decision (RED) requires that the established tolerance for linuron on asparagus be increased to 7.0 ppm.

The scientific data submitted with the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include:

1. A 1-year feeding study in dogs, which were fed diets containing 10, 25, 125, or 625 ppm (equivalent to 0.29, 0.79, 4.17, or 18.6 milligrams (mg)/kilogram (kg)/day for males; 0.3, 0.77, 3.49, or 16.1 mg/kg/day for females), with a no-observed-effect level (NOEL) for systemic toxicity of 25 ppm. The lowest-observed-effect level (LOEL) was established at 125 ppm based on hematology changes.

2. A 2-year feeding/carcinogenicity study in Sprague-Dawley rats, which were fed diets containing 50, 125, or 625 ppm (equivalent to 2.5, 6.25, or 31.25 mg/kg/day), with systemic NOEL's of 50 ppm for females and 625 ppm for males. The LOEL for systemic toxicity for females was established at 125 ppm based on hematotoxicity (a decrease in the percent hemoglobin). There was no decrease in percent hemoglobin in male rats at any dosage level tested. Testicular interstitial cell adenomas were observed at a significantly increased incidence in male rats fed diets containing 125 and 625 ppm.

3. A 2-year feeding study in albino rats, which were fed diets containing 25, 125, or 625 ppm (equivalent to 1.25, 6.25, or 31.25 mg/kg/day), with a systemic NOEL of 125 ppm. Growth retardation and findings indicative of red blood cell disintegration were observed at the LOEL of 625 ppm.

4. An 18-month feeding study was conducted in rats to study the effects of linuron on methemoglobin and sulfhemoglobin blood concentrations. The dietary levels tested were 25, 125, or 625 ppm (1.25, 6.25, or 31.25 mg/kg/day). Significant changes in blood pigment were observed in the mid- and high-dose female rats and the high-dose male rats. NOELs were established at 125 ppm for male rats and 25 ppm for female rats.

5. A 2-year feeding/carcinogenicity in CD-1 mice, which were fed diets containing 50, 150, or 1,500 ppm (12, 35, or 455 mg/kg/day), showed a statistically significant increase in the

incidence of hepatocellular adenomas at 1,500 ppm for female mice, and borderline statistical significance was attained for hepatocellular adenomas at 50 ppm for male mice.

6. A developmental toxicity study in rats at dietary levels of 50, 125, or 625 ppm (5.0, 12.1, or 49.8 mg/kg/day), administered on days 6 to 15 of gestation with NOELs for maternal systemic toxicity and developmental toxicity established at 125 ppm. The LOEL of 625 ppm for maternal systemic toxic effects was based upon decreased body weight and food consumption values. The developmental toxicity LOEL of 625 ppm was based on increases in post-implantation loss and increases in the litter and fetal incidence of resorptions.

7. A developmental toxicity study in rabbits given gavage dosages of 5, 25, or 100 mg/kg/day on days 7 through 19 of gestation with a NOEL for developmental toxicity of 25 mg/kg/day and a NOEL for maternal toxicity of 5 mg/kg/day. The LOEL for maternal systemic toxicity (reduced body weight) was established at 25 mg/kg/day. The LOEL for developmental toxicity was established at 100 mg/kg/day based on an increased number of abortions, decreased mean number of fetuses per litter, decreased fetal body weight, and increased incidence of fetuses with skeletal variations of the skull at that dosage level.

8. A two-generation reproductive toxicity study in rats, which were fed diets containing 12.5, 100, or 625 ppm (equivalent to 0.84, 6.8, or 44.75 mg/kg/day for males; 1.0, 8.3, or 54.1 mg/kg/day for females), with no evidence of adverse effects on fertility or reproductive performance under the conditions of the study. The NOEL for parental systemic toxicity was established at 12.5 ppm based upon decrements in parental body weight gain. In addition, the results of this study support the hypothesis that rats exposed to linuron could develop interstitial cell hyperplasia and subsequent adenomas (Leydig cell tumors) of the testicular tissue via a mechanism of sustained hypersecretion of luteinizing hormone induced by the antiandrogenic potential of linuron.

9. Linuron did not produce gene mutation in an Ames assay or in an *in vitro* assay using Chinese hamster ovary cells. Linuron did not induce bone marrow chromosome aberrations *in vivo* and in other tests for genotoxicity. Linuron did not induce unscheduled DNA synthesis in isolated rat hepatocytes.

10. Metabolism studies in rats show that linuron was extensively metabolized by male and female rats when administered by gavage, and there is no indication of accumulation of linuron or its metabolites in tissues and organs.

Linuron was placed in Special Review for carcinogenicity in 1982. It was later classified as a group C carcinogen (possible human carcinogen) with quantified cancer risk on the basis of a dose-related increase in interstitial cell hyperplasia and adenomas in the 2-year rat feeding study and hepatocellular tumors that appeared in low-dose male and high-dose female mice in a 2-year feeding study. Subsequent review by the Office of Pesticide Programs, Health Effects Division, Peer Review Committee and the Science Advisory Panel resulted in the decision to regulate linuron as a possible human carcinogen without quantified cancer risk. This decision was based on the weight-of-evidence, which suggested that the carcinogenic potential of linuron in humans is weak.

Dietary risk assessments for linuron were conducted using the Reference Dose (RfD) to assess chronic exposure and risk and the Margin of Exposure (MOE) for acute toxicity. The RfD for linuron is established at 0.008 mg/kg of body weight/day, based on a NOEL of 0.77 mg/kg/day from the 1-year feeding study in dogs and an uncertainty factor of 100. The anticipated residue contribution (ARC) from published tolerances and the proposed 7-ppm tolerance for asparagus utilizes 2 percent of the RfD for the general population. The ARC for the subgroup most highly exposed, nonnursing infants (less than 1-year old), utilizes 6 percent of the RfD. EPA concludes that established tolerances and the proposed increased tolerance for asparagus pose a negligible dietary risk to humans. The MOE is a measure of how closely acute dietary exposure comes to the NOEL from the toxicity endpoint of concern. For linuron, the MOE was calculated as a ratio of the NOEL (25 mg/kg/day) from the rabbit developmental toxicity study to dietary exposure (0.03125 mg/kg/day), as estimated by the high-end exposure for the population subgroup at greatest risk (females of childbearing age). The MOE for this subgroup is estimated at 800 for high-end exposure. Acute dietary margins of exposure of less than 100 are generally of concern to EPA. A MOE of 800 poses minimal risk.

The nature of the residue in plants is adequately understood. An adequate analytical method has been published in Pesticide Analytical Manual, Vol. II (PAM Vol. II).

There is no reasonable expectation that secondary residues will occur in milk, and eggs, or meat, fat and meat byproducts of livestock and poultry; there are no livestock feed items associated with asparagus.

There are currently no actions pending against the continued registration of this chemical.

Based on the information and data considered, the Agency has determined that amending 40 CFR 180.184 to increase the tolerance for linuron from 3 ppm to 7 ppm would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

A record has been established for this rulemaking under docket number [PP 5E4464/P629] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must

determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 20, 1995.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.184, paragraph (a) is amended in the table therein by revising the entry for asparagus, to read as follows:

§ 180.184 Linuron; tolerances for residues.

(a) * * *

Commodity	Parts per million
Asparagus	7.0
* * * * *	

* * * * *

[FR Doc. 95-24210 Filed 9-28-95; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 1E3979/P632; FRL-4977-6]

RIN 2070-AC18

Clopyralid; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish a tolerance for residues of the herbicide clopyralid in or on the raw agricultural commodity asparagus. The proposed regulation to establish a maximum permissible level for residues of the herbicide was requested in a petition submitted under the Federal Food, Drug and Cosmetic Act (FFDCA) by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 1E3979/P632], must be received on or before October 30, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Comments and data may also be submitted to OPP by sending electronic mail (e-mail) to:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 1E3979/P632]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the "SUPPLEMENTARY INFORMATION" section of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information." CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 1E3979 to EPA on behalf of the Agricultural Experiment Stations of Arkansas, California, Maryland, Michigan, Minnesota, and Washington. The petition requests that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.431 by establishing a tolerance for residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) in or on the raw agricultural commodity asparagus at 1.0 part per million (ppm).

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include:

1. A 1-year feeding study in dogs, which were fed diets containing 0, 100, 320, and 1,000 milligrams (mg)/kilogram (kg)/day, with a no-observed-effect-level (NOEL) of 100 mg/kg/day. The lowest-observed-effect level (LOEL) was established at 320 mg/kg/day based on increased liver weights and decreased erythrocyte counts and hemoglobin and hematocrit values.

2. A developmental toxicity study in rats, which was given the chemical by gavage at doses of 0, 15, 75, and 250 mg/kg, with no developmental toxicity observed under the conditions of the study. The NOEL for maternal toxicity was established at 75 mg/kg based on decreased body weight and reduced food consumption at the LOEL (250 mg/kg/day).

3. A developmental toxicity study in rabbits, which was given the chemical by gavage at doses of 110 and 250 mg/kg, with no developmental or maternal toxicity observed under the conditions of the study.

4. A 2-year chronic feeding/carcinogenicity study in mice, which were fed diets containing 0, 100, 500, and 2,000 mg/kg/day, with a NOEL for systemic effects of 500 mg/kg. Decreased body weight was observed in male mice fed 2,000 mg/kg/day (LOEL). No carcinogenic effects were observed under the conditions of the study.

5. A 2-year chronic feeding/carcinogenicity study in rats fed diets containing 0, 5, 15, 50, and 150 mg/kg/day with a NOEL for systemic effects of 50 mg/kg/day. The LOEL was established at 150 mg/kg/day based on decreased mean body weight in females in the high-dose group. No carcinogenic effects were observed under the conditions of the study.

6. A two-generation reproduction study in rats fed diets containing 0, 150, 500, and 1,500 mg/kg/day with no observed effect on reproductive performance. A systemic NOEL of 500 mg/kg/day was established for the study based on reduced terminal body weight in the F0 generation at the 1,500 mg/kg/day level.

7. Mutagenicity studies including dominant-lethal assay in rats, *in vivo* rat cytogenetic, *in vitro* Salmonella and Saccharomyces assays, *in vivo* mouse host-mediated assay, and an unscheduled DNA synthesis assay, which were all negative.

8. In a metabolism study in rats, radio-labeled clopyralid was readily absorbed after being ingested and the majority of the radioactive dose was excreted within 24 hours of ingestion.

The reference dose (RfD) for clopyralid is established at 0.5 mg/kg body weight (bwt)/day. The RfD is based on a NOEL of 50 mg/kg/bwt/day from the 2-year feeding study in rats and an uncertainty factor of 100. The theoretical maximum residue contribution (TMRC) from established tolerances utilizes less than 2 percent of the RfD for the overall U.S. population. The TMRC for the subgroup most highly exposed, children aged 1 to 6 years, utilizes less than 4 percent of the RfD. The dietary risk assessment indicates that there is no appreciable risk from establishment of the proposed tolerance for asparagus.

The nature of the residue in plants is adequately understood. The residue of concern is parent clopyralid. An adequate analytical method, gas chromatography, is available for enforcement purposes. Because of the long lead time from establishing these tolerances to publication of the enforcement method in the Pesticide Analytical Manual, the analytical method is being made available, in the interim, to anyone with an interest in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-5937.

No secondary residues are expected to occur in milk, eggs, or meat as a result of this use; asparagus is not considered a livestock feed commodity.

There are presently no actions pending against the continued registration of this chemical.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 1E3979/P632].

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

A record has been established for this rulemaking under docket number [PP 1E3979/P632] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial

number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 20, 1995.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.431 is amended in paragraph (a) in the table therein by adding and alphabetically inserting an entry for the commodity asparagus, to read as follows:

§ 180.431 Clopyralid; tolerances for residues.

(a) * * *

Commodity	Parts per million
Asparagus	1.0

* * * * *

[FR Doc. 95–24209 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 5E4540/P633; FRL–4977–8]

RIN 2070–AC18

α-Alkyl (C_{21}-C_{71})-ω-Hydroxypoly(Oxyethylene); Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that residues of α-alkyl (C_{21}-C_{71})-ω-hydroxypoly(oxyethylene) be exempted from the requirement of a tolerance when used at levels not to exceed 10% as a wetting agent or granule coating in pesticide formulations. Petrolite Corp. requested this regulation under the Federal Food, Drug and Cosmetic Act (FFDCA).

DATES: Comments, identified by the document control number [PP 5E4540/P633], must be received on or before October 30, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, Crystal Mall, Building #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 5E4540/P633]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, Arlington, VA 22202, (703)-308-8375; e-mail: acierto.amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Petrolite Corp., Polymers Division, 6910 East 14th St., Tulsa, OK 74112, submitted pesticide petition (PP) 5E4540 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for α-alkyl (C_{21}-C_{71})-ω-hydroxypoly(oxyethylene) when used at levels not to exceed 10% as a wetting agent or granule coating in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without these data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that no data, in addition to that described below, for α-alkyl (C_{21}-C_{71})-ω-hydroxypoly(oxyethylene) will need to be submitted. The rationale for this decision is described below:

1. The rat acute oral toxicity studies with acute oral LD_{50} values varying from 410 mg/kg to 25,000 mg/kg.

2. The acute dermal toxicity studies with acute dermal LD_{50} values from 930 mg/kg to 11,800 mg/kg in rabbits and > 2,000 mg/kg in rats.

3. Mutagenicity studies including *Salmonella typhimurium* plate (Ames) tests with and without activation, structural chromosomal aberration test and other genotoxic effects tests were negative.

4. The 90-day feeding toxicity study in rats with a NOEL 15 mg/kg/day.

5. The 90-day dermal toxicity study with a NOEL of 20 mg/kg/day in rabbits and greater than 125 mg/kg/day in rats.

6. The developmental toxicity study in rabbits with a systemic maternal NOEL of 50 mg/kg/day and a developmental NOEL of > 200 mg/kg/day indicating no evidence of developmental effects.

7. The rat reproductive toxicity study with the systemic and developmental NOEL of 50 mg/kg/day and reproductive NOEL of > 250 mg/kg/day indicating no evidence of reproductive effects.

8. The rat chronic and carcinogenicity study with systemic NOEL of 50 mg/kg/day showing no evidence of carcinogenicity effects.

Based upon the above evaluation of the toxicological data which shows no evidence of carcinogenicity, mutagenicity (Ames Test), acute and subchronic dermal, developmental or reproductive toxicity of α-alkyl (C_{21}-C_{71})-ω-hydroxypoly (oxyethylene) and the expected dietary exposure, the Agency concludes that this chemical poses no significant risks under the proposed conditions of use and that no further data are required. In addition, these chemicals are similar to other ethoxylated alcohols [C_{12-15}-polyethoxylated alcohols (CAS # 68131-40-8), C_{12-20}-ethoxylated alcohols (CAS # 68526-94-3) and C_{12-18}-ethoxylated-propoxylated alcohol (CAS # 69227-21-0)], which have already been exempted from the requirement of a tolerance under 40 CFR 180.1001(c) or (d) based on data indicating no adverse toxicological effects. Furthermore, these chemicals are among those that the Agency has sufficient information to conclude that their current use patterns in pesticide products will not adversely affect public health and the environment and which have subsequently been reclassified from List 3 (inert ingredients of unknown toxicity) to List 4b (inert ingredients of minimal concern) (60 FR 35396, July 7, 1995). The α-alkyl (C_{21}-C_{71})-ω-hydroxypoly(oxyethylene) merely have a longer carbon chain, and the expected breakdown products are similar to the shorter extant ethoxylated alcohols. There is no reason to believe that there would be any toxicological concern for the longer carbon chain-length alcohols since these would most likely result in decreased absorption and toxicity. Furthermore, similar surfactants, i.e., ethoxylated fatty acids and their salts and esters, ethoxylated polyglycols, ethoxylated amines, and others, are presently exempted from tolerances under 40 CFR 180.1001.

Based upon the information above, the toxicological data and physico-chemical properties of α-alkyl (C_{21}-C_{71})-α-hydroxypoly(oxyethylene), and review of its use, the Agency has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5E4540/P633]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4:30 p.m. Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [PP 5E4540/P633] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 19, 1995.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* *	* * *	* *
α-Alkyl (C_{21}-C_{71})-ω-hydroxypoly (oxyethylene) in which the poly(oxyethylene) content is 2 to 91 moles and molecular weight range from 390 to 5,000.	Not to exceed 10%	Wetting agent or granule coating
* *	* * *	* *

* * * * *

[FR Doc. 95–24280 Filed 9–27–95; 9:10 am]

BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

41 CFR Part 201–2, 201–3, 201–9, 201–18, 201–20, 201–21, 201–22, 201–23, 201–24, and 201–39

RIN 3090–AF84

Amendment of Miscellaneous FIRMR Provisions

AGENCY: Information Technology Service, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend various Federal Information Resources Management Regulation (FIRMR) provisions with regard to updating the references to GSA offices and symbols to reflect reorganizations within GSA.

DATES: Comments will be considered in the final rule, but must be received on or before November 28, 1995.

ADDRESSES: Comments may be mailed to GSA/KAR, 18th & F Streets, NW, Room 3224, Washington, DC 20405, Attn: Doris Farmer or delivered to that address between 8 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Doris Farmer, telephone FTS/Commercial (202) 501–0960 (v), Internet (doris.farmer@gsa.gov) or (202) 501–0657 (tdd).

SUPPLEMENTARY INFORMATION: (1) Various sections of the FIRMR are being amended to update GSA offices and symbols. These changes result from several reorganizations within GSA.

(2) GSA has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of October 4, 1993, because it is not likely to result in any of the impacts noted in Executive order 12866, affect the rights of specified individuals, or raise issues arising from the policies of the Administration. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits and has chosen the alternative approach involving the least net cost to society.

(3) The recordkeeping provisions of the Paperwork Reduction Act do not apply because the FIRMR changes do not impose information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 41 CFR Part 201–2, 201–3, 2021–9, 201–18, 201–20, 201–21, 201–22, 201–23, 201–24, and 201–39

Archives and records, Computer technology, Federal information processing resources activities, Government procurement, Property management, Records management, and Telecommunications. For the reasons set forth in the preamble, GSA is amending 41 CFR part 201–2, 201–3, 201–9, 201–18, 201–20, 201–21, 201–22, 201–23, 201–24, and 201–39 as follows:

PART 201–2—DESIGNATED SENIOR OFFICIAL

1. The authority citation for part 201–2 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–2.003 [Amended]

2. In § 201–2.003 paragraph (a), remove the words "GSA, Assistant Commissioner for Federal Information Resources Management (KD)" and add in their place the words "GSA/KA".

PART 201–3—THE FIRMR SYSTEM

3. The authority citation for part 201–3 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–3.203 [Amended]

4. In § 201–3.203, paragraph (a) remove the words "Information Resources Management Service" and add in their place the words "Information Technology Service."

§ 201.3.401 [Amended]

5. In § 201–3.401, remove the words "Information Resources Management Service" and add in their place the words "Information Technology Service."

§ 201–3.402 [Amended]

6. In § 201–3.402, remove the words "General Services Administration, Regulations Analysis Division, (KAR)" and add in their place the words "GSA/KAR".

PART 201–9—CREATION, MAINTENANCE, AND USE OF RECORDS

7. The authority citation for part 201–9 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–9.202–1 [Amended]

8. In § 201–9.202–1 paragraph (b)(7), remove the words "General Services Administration, Regulations Analysis Division, (KAR)" and add in their place the words "GSA/KAR".

§ 201–9.202–2 [Amended]

9. In § 201–9.202–2 paragraph (b)(1)(ix) remove the words "General Services Administration, Acquisition Reviews Division (KAA)" and add in their place the words "GSA/KAA."

PART 201–18—PLANNING AND BUDGETING

10. The authority citation for part 201–18 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–18.003 [Amended]

11. In § 201–18.003, remove the words "General Services Administration, Acquisition Review Division (KAA)" and add in their place the words "GSA/KAA".

PART 201–20—ACQUISITION

12. The authority citation for part 201–20 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–20.103–11 [Amended]

13. In § 201–20.103–11 paragraph (c), remove the words "GSA Acquisition Reviews Division (KMA)" and add in their place the words "GSA/KAA".

§ 201–20.303 [Amended]

14. In § 201–20–303 paragraph (d)(2), remove the words "General Services Administration, and Regulations Analysis Division, (KAR)" and add in their place the words "GSA/KAR".

§ 201–20.305 [Amended]

15. In § 201–20–305 paragraph (a)(7), remove the words "General Services Administration, Acquisition Reviews Division (KAA)" and add in their place the words "GSA/KAA".

§ 201–20–305–1 [Amended]

16. In § 201–20.305–1, paragraph (a)(3)(v), remove the words "Information Resources Management Service (IRMS)" and add in their place the words "Information Technology Service (ITS)".

§ 201–20–305–2 [Amended]

17. In § 201–20–305–2, remove the words "Information Resources Management Service" and add in their place "Information Technology Service".

PART 201–21—OPERATIONS

18. The authority citation for part 201–21 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–21.403 [Amended]

19. In § 201–21.403 paragraph (a)(2)(ii), remove the words "General Services Administration, Acquisition Reviews Division (KAA)" and add in their place the words "GSA/KAA".

§ 201–21.603 [Amended]

20. In § 201–21.603 paragraph (d)(1) and (d)(3) respectively, remove the words "General Services Administration, Regulations Analysis Division, (KAR)" and add in their place the words "GSA/KAR".

§ 201–21.604 [Amended]

21. In § 201–21.604 paragraph (a), remove the words "General Services Administration, Acquisition Reviews Division (KAA)" and add in their place the words "GSA/KAA".

PART 201–22—REVIEW AND EVALUATION

22. The authority citation for part 201–22 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–22.203 [Amended]

23. In § 201–22.203 paragraph (a)(2), remove the words "General Services Administration, Office of Federal IRM (KA)" and add in their place the words "GSA/KA."

PART 201–23—DISPOSITION

24. The authority citation for Part 201–23 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–23.003 [Amended]

25. In § 201–23.003, paragraph (a) remove the words "General Services Administration, Acquisition Reviews Division (KAA)" and add in their place the words "GSA/KAA".

§ 202–23.003 [Amended]

26. In § 202–23.003, paragraph (c) remove the words "General Services Administration, Acquisition Reviews Division (KAA)" and add in their place the words "GSA/KAA".

§ 202–23.003 [Amended]

27. In § 202–23.003, paragraph (d) remove the words "GSA/IRMS" and add in their place the words "GSA/ITS".

PART 201–24—GSA SERVICES AND ASSISTANCE

28. The authority citation for part 201–24 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–24.102 [Amended]

29. In § 201–24.102 paragraph (c)(2), remove the words "General Services Administration, Acquisition Reviews Division (KMA)" and add in their place the words "GSA/KT, 1730 M Street, NW., Suite 200, Washington, DC 20036".

PART 201–39—ACQUISITION OF FEDERAL INFORMATION PROCESSING (FIP) RESOURCES BY CONTRACTING

30. The authority citation for part 201–39 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–39.001 [Amended]

31. In § 201–39.001 paragraph (b), remove the words "GSA, Regulations Analysis Division, (KAR)" and add in their place the words "GSA/KAR". Also remove the words "GSA, Agency Liaison Division (KAL)" and add in their place the words "GSA/KAL".

§ 201–39.104–1 [Amended]

32. In § 201–39.104–1 paragraph (a)(1) remove the words "Information Resources Management Service" and add in their place the words "Information Technology Service". Also in paragraph (b)(3) remove the words "General Services Administration, Regulations Analysis Division, (KAR)" and add in their place the words "GSA/KAR".

§ 201–39.803–1–[Amended]

33. In § 201–39.803–1, paragraph (a) remove the words "Information Resources Management Service" and add in their place the words "Information Technology Service".

§ 201–39.802–1 [Amended]

34. In § 201–39.802–1(c), remove the word "(KVT)", and add in its place the word "(KTT)"".

§ 20–39.5202–3 [Amended]

35. In § 201–39.5202–3, remove the words "(e.g., KMA–88–9999)" and add in their place the words "(e.g., KAA–88–9999)".

Dated: August 28, 1995.

Francis A. McDonough,

Deputy Commissioner for Information Technology Policy and Leadership.

[FR Doc. 95–23848 Filed 9–28–95; 8:45 am]

BILLING CODE 6820–34–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 73

[MM Docket No. 95–92; DA 95–1970]

Programming Practices of Broadcast Television Networks and Affiliates

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Commission granted an additional 30-day extension of time to file comments and reply comments in the above proceeding in response to a request filed by CBS, Inc., National Broadcasting Company, Inc., and Capital Cities/ABC, Inc. The Commission had previously granted a 30-day extension of the original comment period. The rulemaking proceeding seeks comment on five Commission rules governing programming practices between networks and their affiliates. This extension will permit parties to conduct more extensive analyses of the issues raised in this proceeding.

DATES: Comments are now due on October 28, 1995; reply comments are due November 26, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert Kieschnick ((202) 739–0764).

SUPPLEMENTARY INFORMATION:

Order Granting Extension of Time

Adopted: September 13, 1995.
Released: September 14, 1995.

By the Chief, Mass Media Bureau:

1. On June 15, 1995, the Commission initiated a rulemaking proceeding reexamining the Commission's rules governing programming practices of networks and their affiliates—specifically the right to reject rule, the time option rule, the exclusive affiliation rule, the dual network rule and the network territorial exclusivity rule. *Notice of Proposed Rule Making* in MM Docket No. 95–92, FCC 95–254 (released June 15, 1995), 60 FR 35369 (July 7, 1995). Comments were due August 28, 1995, and reply comments were due September 27, 1995.

2. On August 3, 1995, the Mass Media Bureau granted a 30-day extension of the comment period; as a result, comments were due September 28, 1995, and reply comments were due October 27, 1995. *Order Granting Extension of Time* in MM Docket No. 95–92, DA 95–1711 (released Aug. 3, 1995), 60 FR 40814 (Aug. 10, 1995). The Bureau did so in response to a request by the Network Affiliated Stations Alliance (NASA) for a 60-day extension. While the Bureau did not agree that a 60-day extension was appropriate, it stated its belief that a 30-day extension was warranted to enable parties to carefully compile a complete record regarding the complex issues raised in MM Docket No. 95–92.

3. On August 30, 1995, CBS, Inc., National Broadcasting Company, Inc., and Capital Cities/ABC, Inc., filed a motion to extend the comment date in this proceeding by an additional 30 days, to October 28, 1995. The networks note that ABC and CBS have recently entered into major merger agreements, and that CBS and NBC are involved in a number of station transactions. Further, they submit, all three networks are involved in proceedings involving the network/affiliate advertising rules, children's television and advanced television (ATV). The networks contend that these various undertakings have been occupying the time of their management and legal personnel and that a 30-day extension of time in this proceeding is necessary to provide them a full opportunity to present their views.

4. As set forth in Section 1.46 of the Commission's Rules, 47 CFR 1.46, it is our policy that extensions of time for filing comments in rulemaking proceedings shall not be routinely granted. In response to NASA's request, we stated our belief that an extension until October 28 was excessive. Upon further reflection, however, and in light of recent events, we believe that it would be in the public interest to extend the comment and reply comment dates for this proceeding an additional 30 days. This proceeding has the potential to significantly affect the way the broadcast networks and their affiliates do business, and the fact that both the major networks and the affiliates feel they need additional time to prepare comments is persuasive.

5. Accordingly, *it is ordered* That the Motion for Extension of Time filed in MM Docket No. 95–92 by CBS, Inc., National Broadcasting Company, Inc., and Capital Cities/ABC, Inc., is granted.

5. *It is further ordered* That the time for filing comments in the above-captioned proceeding is extended to October 28, 1995, and the time for filing reply comments is extended to November 26, 1995.

6. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and Sections 0.204(b), 0.283, and 1.45 of the Commission's Rules, 47 CFR 0.204(b), 0.283, and 1.45.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 95–24229 Filed 9–28–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC91

Endangered and Threatened Wildlife and Plants; Proposal To Determine the Least Chub (Iotichthys phlegethontis) an Endangered Species With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to determine the least chub (Iotichthys phlegethontis) to be an endangered species and to designate critical habitat pursuant to the Endangered Species Act of 1973, as amended. This small monotypic minnow is endemic to the Bonneville Basin in Utah where it was once common and widely distributed. Populations of least chub have declined, and it now only exists within Snake Valley in western Utah. The continuing decline in range and abundance of the least club has been attributed to competition and predation from nonnative species and habitat loss and alteration.

DATES: Comments from all interested parties must be received by November 28, 1995. Public hearing requests must be received by November 13, 1995.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Lincoln Plaza, Suite 404, 145 East 1300 South, Salt Lake City, Utah 84115. Comments and materials received will be available for public inspection, by appointment, at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Robert D. Williams at the above address, telephone 801/524–5001.

SUPPLEMENTARY INFORMATION:

Background

The least chub, *Iotichthys phlegethontis*, is an endemic minnow (Family Cyprinidae) of the Bonneville Basin of Utah, which is located in the Great Basin of southwestern North America. E.D. Cope described the least chub (*Clinostomus phlegethontis*) from specimens collected in the Beaver River in 1872 by Dr. H.C. Yarrow and H.W. Henshaw (Cope 1874, cited in Cope and Yarrow 1875). However, the scientific name has been revised several times: from the genus *Clinostomus* to *Gila* (Cope and Yarrow 1875), to *Phoxinus* (Jordan and Gilbert 1883, cited in Jordan and Evermann 1896), to *Hemitremia* (Jordan 1891), to *Leuciscus* subgenus *Iotichthys* (Jordan and Evermann 1896), and finally to the monotypic genus *Iotichthys* (Jordan et al. 1930, cited in Hickman 1989; Robins 1991).

As suggested by its common and scientific names, the least chub is a small fish (<45 mm, 2.5 in.) that is identified by an upturned or oblique mouth (clinostomus), large scales, and absence of a lateral line (rarely with one or two pored scales). It was a deeply compressed body, the dorsal origin lies behind the insertion of the pelvic fin, and the caudle peduncle is slender. Dorsal fin rays number eight (rarely nine), and it has eight anal fin rays. The pharyngeal teeth (2,5–4,2) are in two rows (Jordan and Evermann 1896; Page and Burr 1991).

The colorful least chub has a gold stripe along its blue sides with white-to-yellow fins. Males are olive-green above, steel-blue on the sides, and have a golden stripe behind the upper end of

the gill opening. The fins are lemon-amber, and sometimes the paired fins are bright golden-amber. Females and young are pale olive above, silvery on the sides, and have watery-white fins; their eyes are silvery, with only a little gold coloration, rather than golden as in the males (Sigler and Miller 1963; Page and Burr 1991).

Sigler and Sigler (1987) considered the least chub to be a short-lived and slow-growing species: least chub mature within 1 year and rarely live beyond 3 years of age. Of 218 fish aged by various investigators, less than 1 percent of the fish reached 4 years of age, and only 2 fish reached a total length of 7.6 cm (3 in.). A least chub of average size would be about 3.3 cm (1.3 in.) and weigh 0.57 g (0.02 oz) (Sigler and Workman 1975: Workman et al. 1976; Crawford 1979).

Least chub begin spawning in the spring when water temperatures reach about 16 °C (60 °F; Sigler and Sigler 1987). The least chub is a partial and intermittent spawner. Crawford (1979) found that least chub females produced only a few eggs at any time but release eggs over an extended period. The number of eggs produced at any one time is variable and may range from about 300 to 2,700 (Sigler and Sigler 1987). Although the peak spawning activity occurs in May, the reproductive season lasts from April to August, and perhaps longer depending on environmental conditions. The least chub has evolved this reproductive strategy (i.e., repetitive spawning during one season and of spreading the spawn over many weeks) perhaps as an adaptation to unpredictable environmental changes that are present in desert habitats. The least chub presumably initiates spawning in response to increases in water temperature and photoperiod, which may act in concert with other environmental and physiological factors, including exposure to direct sunlight (Crawford 1979; Sigler and Sigler 1987).

The least chub releases its sex products over vegetation (Crawford 1979). The adhesive eggs then sink and usually attach to the underwater vegetation. Fertilized eggs hatch in about 2 days at water temperatures of 22 °C (72 °F; Crawford 1979). The presence of submerged vegetation provides an important habitat for eggs and young larvae by furnishing needed oxygen and food (Crist and Holden 1980).

Common foods of the least chub include algae (Chlorophyta and Chrysophyta) midges (Chironomidae), and microcrustaceans; but they also eat other items (Sigler and Sigler 1987). Of 185 least chub taken from 27 springs, 121 stomachs contained 14 food types including algae, crustaceans, and insects (Workman et al. 1979). It also is believed that mosquito larvae make up a significant portion of their diet (Sigler and Miller 1963; Sigler and Workman 1975). Workman et al. (1979) noted that least chub diet changed throughout the year, and vegetation was more important during winter months.

The least chub was once widely distributed within the Bonneville Basin of northwestern Utah. The fish occupied a variety of habitats including streams, springs, and ponds, and it was classified as "excessively common" in its preferred habitats (Jordan and Everman 1896). Yarrow and Henshaw found least chub in the Beaver River (Cope and Yarrow 1875). Jordan (1891, cited by Jordan and Evermann 1896) collected least chub from ponds near the mouth of the Provo River. Jordan and Evermann (1896) stated that least club occurred in "tributaries of Great Salt Lake and Sevier Lake," Least chub also have been observed in Utah Lake, Beaver River, Parowan Creek, Clear Creek, and the Provo River (reviewed by Sigler and Miller 1963; Hickman 1989). More recently, C.D. Barbour, University of Utah, (*in litt.* 1970) collected least chub from the Gandy Salt Marsh Complex in the Snake Valley. In 1970, R.R. Miller, University of Michigan, (*in litt.* 1971), found large numbers of least chub in the Leland Harris Springs complex, also in Snake Valley.

A decline in distribution and abundance of the least chub was first noted in the 1940's and 1950's (Baugh 1980). Hubbs and Miller collected least chub on trips into Utah during the 1940's and 1950's, and also noted a decrease in abundance (Holden et al. 1974). The fish is now restricted to the Snake Valley of the Bonneville Basin.

Least chub occur on a mixture of Federal, State, and private lands at five locations in the Snake Valley. Small numbers of least chub exist in two isolated springs: Central Spring (Bishop Spring Complex, Millard County) and Miller Spring (Juab County), but the fish is most abundant in Leland Harris Spring Complex (Juab County) and Gandy Salt Marsh Complex (Millard County). Recent surveys by the Utah Divison of Wildlife Resources (UDWR), Salt Lake City, (*in litt.* 1993) indicated that some least chub in Snake Creek, south of Grandy Salt Marsh. However, no studies have been conducted to determine the distribution, abundance, or status of this Snake Creek population (L. Lentsch, UDWR, pers. comm. 1993).

Historically, the least chub inhabited a variety of habitat types in different environments (Lamarra 1981; Sigler and Sigler 1987). Least chub now occupy springs, marshes and pools, and stream habitats. Osmundson (1988) reported collections of least chub from 38 sites, and these fish were captured in pools from 0.3 to 260 m^3 (3 to 2,800 ft^2) in size and with water depths of 0.1 to 3.6 m (0.4 to 12ft). In some of these habitats, certain environmental parameters fluctute. The springs exhibit cool stable temperature, relatively low conductivity, and little variation in dissolved oxygen content. The marsh and pool environments exhibit extreme diurnal fluctuations in dissolved oxygen, and water temperatures that may vary between 15 and 32 °C (59–90 °F) (Crist and Holden 1980; Lamarra 1981). Seasonal water quality changes in the marshes and stream segments result in fish movement back and forth between different hibitat types, especially between the springs and marshes (Crist and Holden 1980).

Vegetation is an important habitat component for the least chub (Crist and Holden 1980), and Sigler and Workman (1975) reported that least chub habitat included aquatic plants that were "plentiful and provided excellent cover." Water parsnip (*Berula erecta*), wire rush (*Juncus balticus*), and algae are common in and around the springs and marshes that are inhabited by the fish (Sigler and Workman, 1975). However, many other plants occur in areas occupied by the fish including *Chara* sp., duckweed (*Laemna* sp.), watercress (*Nasturtium* sp.), bulrushes (*Sciurpus* sp.), cattails (*Typha* sp.), and sedges (*Cyperus* sp.) (Sigler and Sigler 1987).

Least chub has not been collected outside of Snake Valley since 1965 (Hickman 1989). They continue to decline in Snake Valley, and studies conducted in the past 15 years indicate a steady decline in their distribution and abundance. Workman et al. (1979) collected least chub from 36 sites in 5 major spring complexes in Snake Valley, but Osmundson (1985) found it in only 2 of 5 complexes where it previously existed. Crist (1990) reported that least chub were extirpated from springs on the Bagley Ranch and the Redden Springs Complex. Least chub numbers are now declining within the Gandy Salt Marsh and Leland Harris Spring Complex. Recent collections by UDWR personnel indicate that least club occurs in only 3 of 5 springs sampled in the Leland-Harris Complex and 6 of 12 springs in the Grandy Salt Marsh. A continuing decline of the least chub has prompted the American Fisheries Society to recognize it as a threatened species (Deacon et al. 1979).

As with other endemic southwestern fishes (Courtenay and Stauffer 1984; Meffe 1985; Schoenherr 1991), predation by introduced nonnative fishes have caused the decline of the least chub. Largemouth bass, rainbow trout, common carp, and brook trout have been regularly stocked by government agencies and private citizens into least chub habitat (Workman et al. 1979; Sigler and Sigler 1987; Osmundson 1985). Hickman (1989) considered least chub to be "constantly threatened" by the introduction of these gamefish species. However, other nonnative species also prey upon or compete with the least club, including the mosquitofish (*Gambusia affinis*) and rainwater killifish (*Lucania parva*). Introduction of fishes into least chub habitat probably contributed to the extirpation of least chub outside of Snake Valley, since few least chub are present in spring complexes in Snake Valley where nonnative fishes have been introduced (Osmundson 1985; Shirley, *in litt.* 1989).

Direct, physical habitat loss and habitat degradation also are factors in the decline of the least chub (Holden et al. 1974; Hickman 1989; Crist 1990). In spring complexes that contain least chub, habitat degradation caused by livestock trampling could be a threat although no studies of the impact of livestock on the springs of Snake Valley have been conducted to date.

Recent oil and gas exploration and production activity in the West Desert area may result in increased degradation and/or impacts to least chub habitat. Exploration results in increased road access to sensitive areas while surface activities associated with drilling, including drilling site preparation under water hauling, may impact water quality. Drilling activities also may release drilling fluids into the aquifer or may fracture underground geologic features that are associated with springs.

Water withdrawals also are a potential threat to the least chub. Not only can reduced water supp y diminish the amount of least chub habitat, and thus the capacity of an area to support least chub, but lowered levels may cause niche overlaps with other species. These overlaps may increase hybrid introgression and interspecific competition (Crawford 1979; Lamarra 1981). Maintenance of certain water levels is very important to least chub because these levels must be high enough to allow the fish to migrate between springs and surrounding marsh areas as environmental conditions change. Additionally, maintenance of water levels and discharge volumes is critical in preserving natural sediment transport processes, thereby maintaining underwater habitat configurations and reducing aquatic vegetation encroachment into sensitive spring areas.

Present water withdrawals from surface and underground sources are estimated at 10 percent of the total yearly recharge rate (Van Pelt 1992). These rates do not appear to be threatening to least chub habitat. However, additional proposed wells in the southern part of Snake Valley and surrounding areas could lower the water table, resulting in drying up or lowering the water level in springs and marshes populated by least chub. These springs are dependant on underground water sources that flow from the Deep Creek Mountains to the Snake Valley (M. Barber, Bureau of Land Management (BLM), *in litt.* 1991; Brothers et al. 1993). It is important to note that all surface streams from the Deep Creek Mountains are currently diverted for agricultural use.

Several efforts to reintroduce least chub into historic habitat have been attempted. In 1979, least chub were introduced into a pond near Salt Lake City, Utah. The following year, young least chub were collected, verifying successful reproduction. However, introduction of nonnative fishes, combined with flooding of the pond by the Great Salt Lake, eliminated this successfully reintroduced population. Two other attempts to reintroduce least chub were not successful; the reasons for these failures are not well understood, but competition and/or predation with nonnative fishes offer a partial explanation (Crist 1990). Additional investigations are necessary prior to future reintroduction attempts, including reasons for past successes and failures, and the need to experiment with several reintroduction techniques. Both the UDWR and BLM are working on developing management plans that will address these reintroduction issues (L. Lentsch, UDWR, pers. comm., 1994; R. Fike, BLM, pers. comm., 1994).

Previous Federal Action

The Fish and Wildlife Service (Service) has conducted three status reviews for the least chub and have prepared two status reports. In 1980, the Service reviewed existing information on the least chub and determined that there was insufficient data to warrant its listing as endangered or threatened. On December 30, 1982, the Service classified the fish as a category 2 candidate species (47 FR 58454). After preparation of a 1989 status report, the Service reclassified the least chub as a category 1 candidate species (54 FR 554; January 6, 1989). The Service continues to evaluate information and data concerning population declines and increasing threats, and has determined that listing the least chub as endangered or threatened is warranted.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the least chub (*Iotichthys phlegethontis*) are as follows:

A. *The threatened destruction, modification, or curtailment of its habitat or range.* The least chub was once widely distributed within the Bonneville Basin of northwestern Utah and occupied many streams, springs, and ponds. Yarrow and Henshaw found least chub in the Beaver River (Cope and Yarrow 1875). Jordan (1891, cited by Jordan and Evermann 1896) collected least chub from ponds near the mouth of the Provo River. Jordan and Evermann (1896) stated that least chub occurred in "tributaries of Great Salt Lake and Sevier Lake." More recently, least chub were observed in Utah Lake, Beaver River, Parowan Creek, Clear Creek, and the Provo River (reviewed by Sigler and Miller 1963; Hickman 1989). However, least chub have not been collected outside of Snake Valley since 1965 (Hickman 1989).

Least chub populations in Snake Valley are not stable and studies conducted in the past 15 years indicate a steady decline in their distribution and numbers. Workman et al. (1979) collected least chub from 36 sites spread throughout 5 major spring complexes in Snake Valley. A few years later, Osmundson (1985) found least chub in only two of the five complexes. Further surveys have confirmed that least chub has been extirpated from springs on the Bagley Ranch and the Redden Springs Complex (Crist 1990). Recent data suggest that least chub numbers are now declining within the Gandy Salt Marsh and Leland Harris Spring Complex. Personnel from UDWR found least chub only in 3 of 5 springs sampled in the Leland-Harris Complex and 6 of 12 springs in the Gandy Salt Marsh. Some least chub have recently been discovered in Snake Creek, south of Gandy Salt Marsh. However, no studies

have been conducted to determine the distribution, abundance, or status of this Snake Creek population (L. Lentsch, pers. comm., 1993). Service biologists believe that the numbers of least chub at Snake Creek are insufficient to reverse this downward trend in its numbers.

Habitat loss and degradation have been indicated as major causes of the least chub's decline (Holden et al. 1974; Hickman 1989; Crist 1990). Although no studies have been made of the springs in Snake Valley, numerous other reports link livestock trampling and grazing with fish habitat degradation in streams and springs (Duff 1977; May and Somes 1981; Taylor et al. 1989; Bowen and Beauchamp 1992). The springs in the Snake Valley that are occupied by least chub are not protected from livestock. The BLM has one fenced exclosure in the Gandy Salt Marsh Complex and is considering a second exclosure to protect other springs (R. Fike, BLM, pers. comm., 1993).

Crist and Holden (1990) and Lamarra (1981) indicated that water levels are important to least chub life history. The Las Vegas Valley Water District has requested a permit to drill a series of wells in the southern part of Snake Valley and surrounding areas (M. Barber, *in litt.* 1991). This could lower the water table significantly in Snake Valley, possibly drying up or lowering the water level in springs and marshes populated by least chub. These springs are totally dependent on underground water sources which flow from the Deep Creek Mountains to the west of Snake Valley. Other forms of water use within Snake Valley pose a minimal threat to least chub habitat at this time, and water withdrawals from surface and underground sources are estimated at 10 percent of the total yearly recharge rate (Van Pelt 1992).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Some specimens have been collected for scientific and educational purposes (Sigler and Workman 1975; Workman et al. 1979; Crawford 1979; Osmundson 1985). However, no commercial or recreational uses for the least chub are known to exist. Overutilization for commercial or scientific purposes does not pose a threat to least chub.

C. *Disease or predation.* Disease or incidence of parasitism presently are not major factors affecting the least chub. Workman et al. (1979) found a single parasite called blackspot (the metacercariae of the digenetic trematode) infesting the least chub. Black spot (*Neascus cuticola*) produces small, black-pigmented nodules on the skin, trunk musculature, and fins of fishes and is frequently encountered in the least chub, Utah chub (*Gila atraria*), and speckled dace (*Rhinichthyes osculus*). Workman et al. (1979) reported black spot infection rates for the least chub as 1–23 nodules per fish, and that the infection rate varied from area to area and with season (highest in late summer and lowest in winter). Despite this moderate infestation rate, all least chubs examined appeared robust and in good condition. This parasite is apparently restricted to certain spring and pond areas.

Predation by nonnative fishes has been a major factor in the decline and extirpation of desert fishes in southwestern North America (Schoenherr 1981; Meffe 1985; Minckley et al. 1991). Hickman (1989) considered least chub to be "constantly threatened" by the introduction of nonnative species. Surveys of spring complexes indicate that where nonnative fishes were introduced, few if any least chub remain (Osmundson 1985; Shirley, *in litt.* 1989). Introduced game fishes which include largemouth bass, rainbow trout, common carp, and brook trout, are predators on least chub, and these species have been regularly stocked in least chub habitat (Workman et al. 1979; Sigler and Sigler 1987; Osmundson 1985; Crist 1990), no doubt contributing to the endangerment of least chub. In addition to game fish, other nonnative fishes also have been released into least chub habitat. Two fishes, the mosquitofish (*Gambusia affinis*) and rainwater killifish (*Luciana parva*), have similar diets to the least chub and are considered potential competitors. The mosquitofish poses a direct threat to the least chub because of its known aggressive predation on eggs and young of other fishes. Mosquitofish have been implicated in the decline of other desert fishes (Schoenherr 1981; Meffe 1985).

Osmundson (1985) and Sigler and Sigler (1987) also indicated that frogs, ducks, gulls, herons and egrets also are potential predators on least chub. Under normal circumstances, predation from these sources probably would not injure healthy populations of least chub. However, the effect of predation from the above combined sources could cause further depletion of already fragile populations.

D. *The inadequacy of existing regulatory mechanisms.* Although the State of Utah lists the least chub as a protected species, the Service believes that the present level of protection afforded by the State is not sufficient. The State does not allow taking of the species without permits, but it does not protect or control actions which cause harm to the species or its habitat. The continued introduction of nonnative predators into least chub habitat and adjacent areas is difficult to control, and the State's protection does not address this issue.

The BLM has designated the Gandy Salt Marsh as an "Area of Critical Environmental Concern (ACEC)." This ACEC is inadequate in protecting the least chub because it does not prevent taking of the species. The establishment of an ACEC requires a management system which integrates the protection of riparian areas without infringement on "traditional permitted uses" (Van Pelt 1990). Accordingly, the Gandy Salt marsh ACEC does not prevent livestock gracing in and around least chub habitat and it does not extend over the fish's entire habitat. Finally, the ACEC is a BLM oil and gas leasing category 4, which normally closes the area to leasing. However, a clause was written into the BLM's Resource Management Plan which allows the District Manager to exempt the category 4 protections and to lease ACEC lands.

E. *Other natural or manmade factors affecting its continued existence.* Declines in native desert fishes in the Southwest has been associated with the introduction and proliferation of nonnative fishes. These nonnative fishes have, in some documented instances, extirpated small desert fishes by direct competition and predation (Schoenherr 1981; Meffe 1985; Minckley et al. 1991). The existence of small desert cyprinids, including the least chub, is presumably the result of a lack of other small competitors (Smith 1981; Minckley et al. 1991).

Least chub coexist with other native fishes, which include the Utah chub and speckled dace. However, the tiny and reclusive least chub competes poorly with nonnative species such as mosquitofish and rainwater killifish. The mosquitofish, rainbow trout, and largemouth bass are considered to be direct predators (Sigler and Workman 1975; Crawford 1979; Sigler and Sigler 1987). Least chub do not build nests or protect their eggs. Instead, they lay their eggs upon vegetation where they and the newly hatched larvae are vulnerable to predation (Crawford 1979).

Hybrid introgression between least chub and the Utah chub and speckled dace have been reported (Sigler and Sigler 1987). Reproductive isolating mechanisms have apparently broken down in some areas due to habitat alteration and degradation. This has resulted in overlaps of reproductive niches and breakdowns in behavior due to overcrowding (Crawford 1978;

Lamarra 1981). Least chub hybrids have been reported from springs near Callao, Utah, where least chubs once existed. But no hybrids have been reported from Leland Harris Springs Complex where least chub habitat has not been greatly altered by humans (Lamarra 1981).

Another potential threat to the least chub is a proposed mosquito abatement program for Juab County. The BLM has rejected the County's request to implement a mosquito control spraying program in marsh and spring areas on BLM administered lands (R. Fike, *in litt.* 1992). The rejection does not prevent the county from spraying on privately-owned lands. The effect of a mosquito control spraying program on the least chub is uncertain. Past studies (Workman et al. 1979) indicate that much of the least chub's diet is composed of insects, which includes mosquito larvae. To date, no studies have been undertaken to determine the effects of toxins on the chub or its environment.

Due to the extremely limited distribution of this species, least chub are very susceptible to stochastic events. There are only five known populations of least chub, and each population is small. A single catastrophic event could destroy a significant portion of remaining least chubs, or one or more of their populations. These remaining populations are vital in maintaining the genetic diversity of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining whether to propose this listing action. Based on this evaluation, the preferred action is to list the least chub as endangered since this fish is restricted to only five known populations. Habitat loss and degradation continue to reduce its numbers in these remaining populations. Without additional protection of its habitat, continued degradation by livestock will result in a further reduction in its numbers. Competition and predation by other nonnative fishes pose severe threats to the remaining populations. The least chub is highly susceptible to additional habitat degradation and to habitat and population losses. For the reasons discussed below, the Service also is proposing to designate critical habitat for the least chub.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: "(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed * * *, upon a determination by the Secretary that such areas are essential for the conservation of the species."

"Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the same time the species is determined to be endangered or threatened. Critical habitat is being proposed for the least chub to include the following areas in Utah.

Northern Snake Valley Group including: Redding Springs Complex (Tooele County) and Bagley Ranch Springs Complex (Tooele and Juab Counties).

Southern Snake Valley Group including: Miller Spring (Juab County); Leland Harris Springs Complex (Juab and Millard Counties); Gandy Salt Marsh Complex (Millard County); and Bishop Springs Complex (Millard County).

Tule Valley Group including: Coyote Spring Complex (Millard County); Willow Spring (Millard County); Tule Springs Complex (Millard County); and South Tule Springs (Millard County). Legal descriptions for these areas are provided in the "Proposed Regulation Promulgation section.

In determining the areas to designate as critical habitat for a species, the Service considers those physical and biological attributes that are essential to species conservation. In addition, the Act stipulates that the areas containing these elements may require special management consideration or protection. Such physical and biological features are stated in 50 CFR 424.12 and include, but are not limited to, the following items:

(1) Space for individual growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally,

(5) Habitats that are protected from disturbance or are representative of the historical, geographical and ecological distributions of a species.

In designating critical habitat, the Service is concerned with constituent elements within the defined areas that are essential to the conservation and recovery of the species. The areas proposed as critical habitat for the least chub provide the necessary constituent elements determine essential to the survival and recovery of the least chub. They include the following:

—adequate water quantity to: (1) maintain underground aquifer function, spring flow pressure and volume, and spring water surface elevation, (2) allow the fish to complete its life cycle (spawning, rearing, feeding, etc.), and (3) allow for movement between integral parts of its habitat and to reduce the overlap with niches of other native fishes;

—sufficient vegetation in spring and surrounding marsh riparian areas to provide cover, food, spawning sites, prevent erosion, and to meet other life history requirements of the fish; and

—a biological environment in which there is little or no interaction with nonnative fishes.

The Service recognizes that those habitats proposed as critical are not sufficient to achieve recovery for the species because they do not represent the historic range or all of the widely diverse habitat types that the species historically evolved in and occupied. The UDWR and BLM are currently surveying least chub habitats throughout its historic range to determine if the requisites necessary for recovery are still available. The Service, in the process of developing a "Least Chub Recovery Plan," may utilize these new data to identify additional critical habitat areas needed to ensure the recovery of the species. The Service may, at a future date, repropose critical habitat for the least chub.

Section 4(b)(8) of the Act requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities that may adversely modify or destroy such habitat or those activities that may be affected by such designation. Activities, such as habitat alterations through livestock impacts, pollution, or dewatering, would be detrimental to the survival of this species. Additionally, activities that provide for increased access to remote spring sites or that alter ground water or deep aquifer spring sources and flow rates would also be considered detrimental. Predation and competition from nonnative species on least chubs

are considered major factors causing its demise. Future activities on Federal lands or activities requiring Federal permits in the Snake Valley area would have to be taken under consultation to prevent further adverse impacts on the least chub or its habitat.

Impacts generally will be restricted to activities on Federal lands or on lands where proposed actions require Federal permits. The greatest impact would be on livestock grazing and its restriction in and around least chub habitat. Grazing would be limited within the general area occupied by least chub to prevent any further habitat degradation within proposed critical habitat. Drilling for water within proposed critical habitat would also be restricted. Presently, water regeneration within the Gandy Salt Marsh is adequate to allow for surface water use by livestock without impacting water levels within the marsh. Livestock could graze in pastures surrounding the proposed critical habitat areas if their access to aquatic habitats are prevented. Oil and gas exploration and production activities would be restricted within critical habitat. Surface activities and directional drilling are already restricted on BLM-owned lands that are designated as "Category 4" lands (these lands are already closed to leasing).

Presently, the recharging of ground water is sufficient to offset current withdrawals. Any federally funded or permitted water withdrawals (i.e., the Las Vegas Valley Water District permits for well drilling) would require section 7 consultation if it is shown that ground water withdrawals would impact critical habitat areas.

Section 4(b)(2) of the Act requires the Service to consider economic impacts of designating a particular area as critical habitat. The Service will prepare an economic analysis of the impacts of designating critical habitat for the least chub. Upon completion of the analysis, the Service will notify the public of its availability and will request public review and comments.

Available Conservation Measures

Conservation measures provided to species listed as endangered under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against take. Recognition through listing encourages conservation actions by Federal and State agencies and private individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or that would result in destruction or adverse modification of proposed critical habitat. If the least chub is listed, section 7(a)(2) of the Act will require Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of this species or to destroy or adversely modify its critical habitat. If a Federal action could possibly affect the least chub or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Some portions of the least chub's proposed critical habitat are on private lands. The Federal Government has certain authority which may influence private undertakings in least chub critical habitat. Private activities that involve dredging and filling of wetlands would require a 404 permit (Federal Clean Water Act).

It is the policy of the Service to identify, to the extent known at the time a species is listed, specified activities that will not be considered likely to result in violation of section 9 of the Act. To the extent possible, activities that will be in violation also will be identified in as specific a manner as possible. The Service believes that the actions listed below might potentially result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Unauthorized collecting or handling of the species;

(2) Destruction or alteration of the species habitat (i.e., water depletions that significantly modify spring functions; activities that change water quality or quantity; dredging or other physical modifications that impact the springs; introduction of nonnative species);

(3) Improper use of herbicides, fertilizers, or pesticides;

(4) Contamination of soil or ground water by spills, discharges or dumping of chemicals, silt, or other pollutants associated with agriculture and oil and gas activities;

Questions regarding whether a specific activity will constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Salt Lake City Field office (see **ADDRESSES** section). Requests for copies of regulations concerning listed animals and general inquiries regarding prohibitions and permits may be addressed to the Fish and Wildlife Service, Ecological Services, P.O. Box 25486, Denver Federal Center, Denver, Colorado, (telephone 303/236–7398; facsimile 303/236/0027).

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, codified at 50 CFR 17.21, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are found at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. Requests for copies of the regulations on animals and inquiries regarding them may be addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (telephone 303/236–7398).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions concerning biological information and potential threats to the least chub are requested from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party. Comments are sought particularly concerning:

(1) Biological, commercial trade, or other relevant data concerning any

threat (or the lack thereof) to the least chub;

(2) The location of any additional populations of least chub and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species;

(4) Current or planned activities which may adversely modify the area which is being considered for critical habitat; and

(5) Any foreseeable economic and other impacts resulting from the proposed designation of critical habitat.

(6) Final promulgation of this regulation on the least chub will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing to the Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor (see **ADDRESSES** section).

Authors

The primary author of this proposed rule is Doug Young (see **ADDRESSES** section).

List of Subjects in 59 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.11(h) is amended by adding the following, in alphabetical order under fishes, to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

SPECIES		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fishes.							
*	*	*	*	*	*	*	
Chub, least	*Iotichthys phlegethontis.*	U.S.A. (UT)	Entire	E		17.95(e)	NA
*	*	*	*	*	*	*	

3. It is further proposed to amend § 17.95(e) by adding critical habitat for the least chub, in the same alphabetical order as the species occurs in 17.11(h) to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(e) * * *

* * * * *

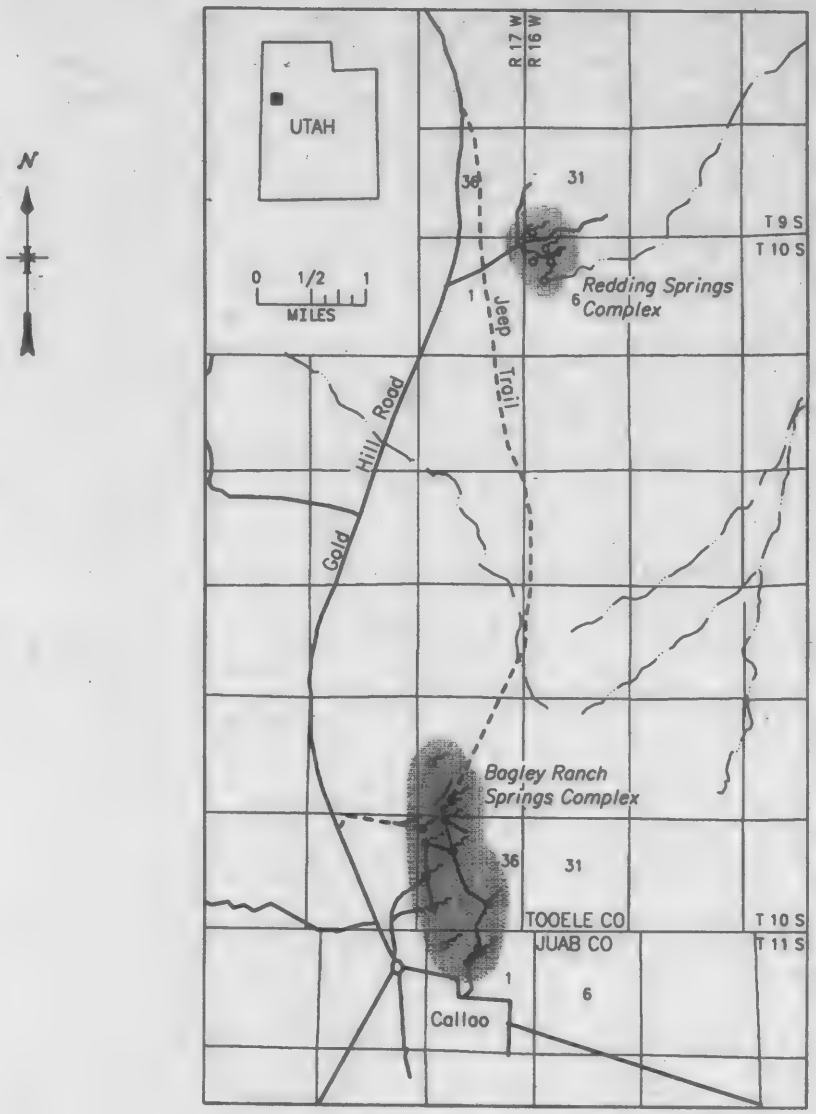
LEAST CHUB (*Iotichthys phlegethontis*)

1. Northern Snake Valley Group, Utah: Tooele and Juab Counties, Snake Valley. The following areas including all springs, outflow pools, runoffs streams, marshes, and a ⅛-mile zone on all sides of springs, pools, streams, and marshes:

T9S, R16W, SW¼ Sec. 31; T9S, R17W, SE¼ of SE¼ Sec. 36; T10S, R17W, E½, of NE¼ Sec. 1, SW¼ Sec. 25, W½ of SE¼ Sec. 25, S½ of NW¼ Sec. 25, E½ of SE¼ Sec. 26, E½ of E½ Sec. 35, W½ Sec. 36,W½ of E½ Sec. 36; T10S, R16W, NW¼ Sec. 6; T11S, R17W, NW½ Sec. 1, W½ of NE¼ Sec. 1.

Note: Map follows:

BILLING CODE 4310-55-M



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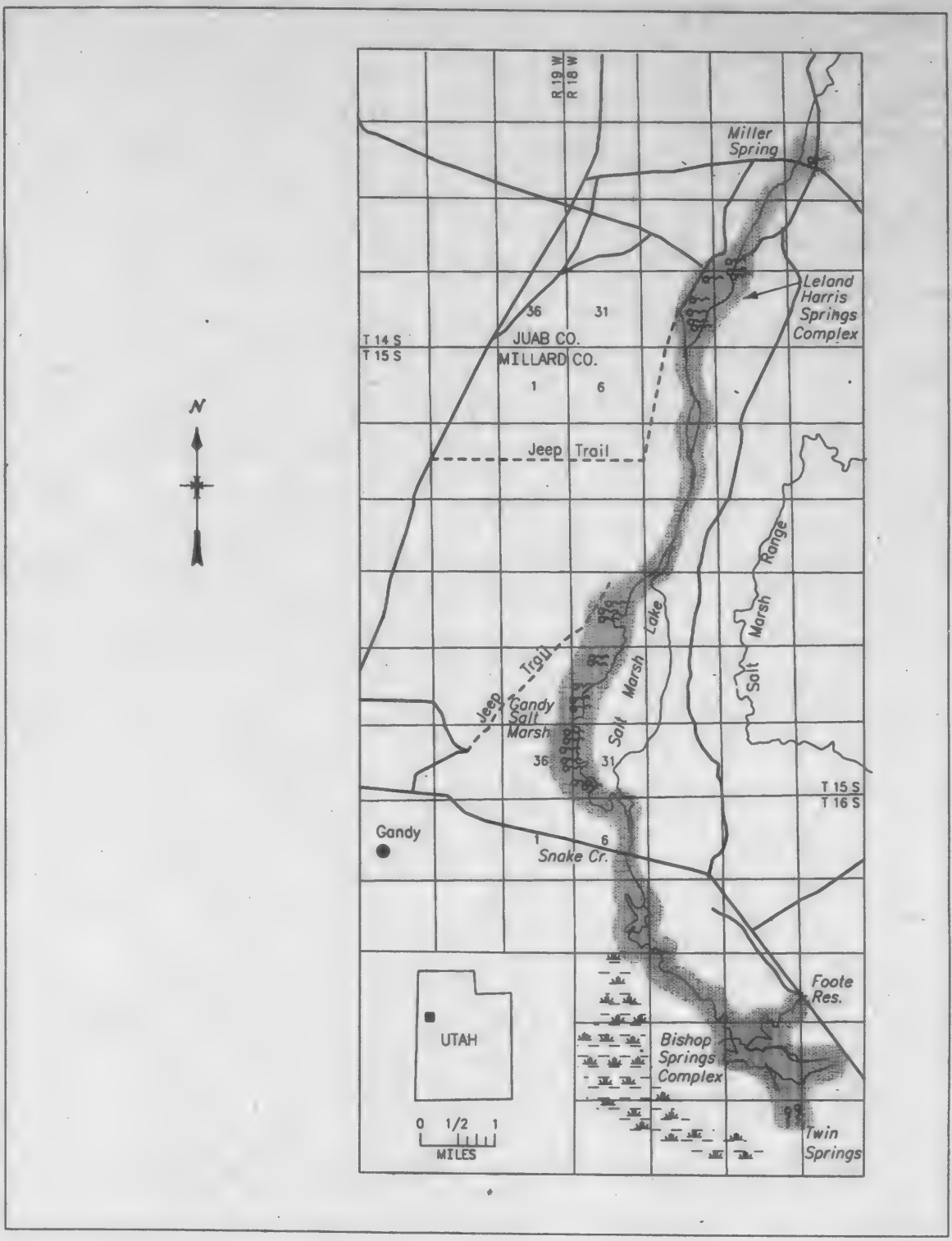
2. Southern Snake Valley Group, Utah, Juab and Millard Counties, Snake Valley. The following areas including all springs, outflow pools, runoff streams, marshes, and a ⅛-mile zone on all sides of springs, pools, streams, and marshes, excluding Foote Reservoir, but including the spring source for Foote Reservoir:

T14S, R18W, SW¼ of NE¼ Sec. 22, SE¼ of NW¼ Sec. 22, NW¼ of NW¼ Sec. 22, N½ of SW¼ Sec. 22, SE¼ of SE¼ Sec. 21. W½ of NE¼ Sec. 28, SE¼ of NW¼ Sec. 28, SW¼ Sec. 28, SE¼ of SE¼ Sec. 29, NW¼ Sec. 33, NW¼ of SW¼ Sec. 33, E½ Sec. 32; T15S, R18W, E½ Sec. 5, E½ Sec. 8, NW¼ of NE¼ Sec. 17, SE¼ of NW¼ Sec. 17, NE¼ Sec. 17, NW¼ of SE¼ Sec. 17, SE¼ of SE¼ Sec. 18, NW¼ of NW¼ Sec. 20, NE¼ Sec. 19, SE¼ of NW¼ Sec. 19, E½ of SW¼ Sec. 19 W½ of SE½ Sec. 19, W½ of NE¼ Sec. 30, W½ Sec. 30, W½ of NW¼ Sec. 31, SW¼ Sec. 31, SW¼ of SE¼ Sec. 31; T15S, R19W, SE¼ of SE¼ Sec. 25, E½ of SE¼ Sec. 25, E½ of NE¼ Sec. 36, E½ of SE¼ Sec. 36; T16S, R18W, E½ Sec. 6, N½ of NW¼ Sec. 6, E½ Sec. 7, W½ of W½ Sec. 8, NE¼ of NE¼ Sec. 18, NW¼ Sec. 17, SW¼ of NE¼ Sec. 17, NE¼ of SW¼ Sec. 17, SE¼ Sec. 17, S½ of S½ Sec. 16, SW½ of SW¼ Sec. 15, E½ of NE¼ Sec. 20, NE¼ of SE¼ Sec. 20, N½ Sec. 21, N½ of SW¼ Sec. 21, SE¼ Sec. 21, S½ of NW¼ Sec. 22, SW¼ of NE¼ Sec. 22, N½ of SW¼ Sec. 22, SW¼ of SW¼ Sec. 22, NW¼ of SE¼ Sec. 22, E½ of NE¼ Sec. 28, W½ of NW¼ Sec. 27.

Note. Map follows:

BILLING CODE 4310-DQ-M



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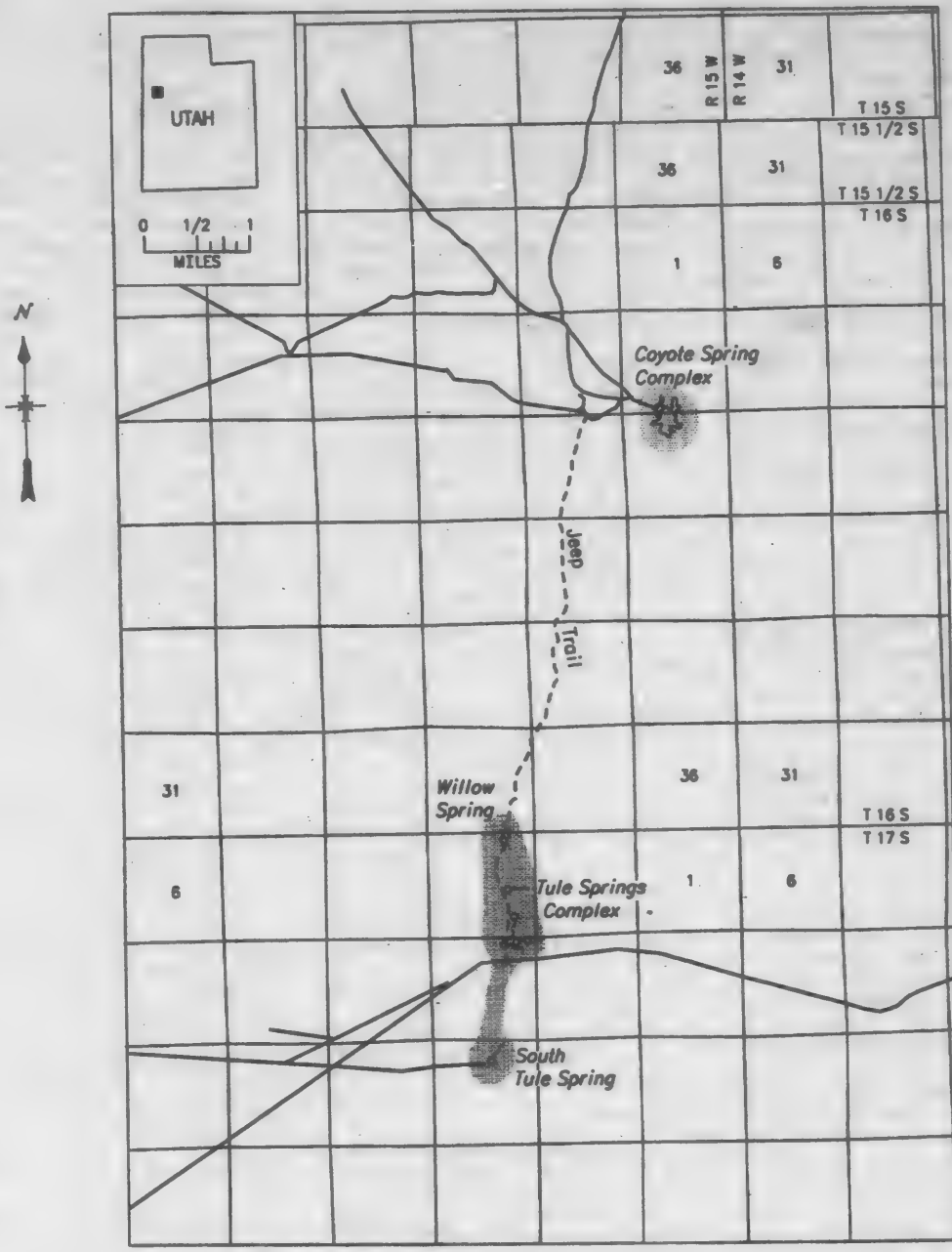
3. Tule Valley Group, Utah: Millard County, Tule Valley. The following areas including all springs, outflow pools, runoff streams, marshes, and a ⅛-mile zone on all sides of springs, pools, streams, and marshes:

T16S, R15W, SE¼ of SW¼ Sec. 12, SW½ of SE¼ Sec. 12, E½ of NW¼ Sec. 13, W½ of NE¼ Sec. 13, S½ of SE¼ Sec 34; T17S, R15W, E½ Sec. 3, W¼ of SW½ Sec. 2, N½ of NE¼ Sec. 10, SW¼ of NE¼ Sec. 10, W½ of SE¼ Sec. 10, W½ of NE¼ Sec. 15, E½ of NW¼ Sec. 15.

Note. Map follows:

BILLING CODE 4310-55-M



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Constituent elements for all areas of critical habitat include permanent sources of water, water quality and quantity to satisfy requirements for all life history stages of the fish, a predator-free habitat, adequate vegetative cover, and other environmental features that may be deemed necessary upon site-specific evaluations.

Dated: September 18, 1995.

George T. Frampton,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 24320 Filed 9–28–95; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227 and 425

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17 and 425

RIN 1018–AD 12

Endangered and Threatened Species; Proposed Threatened Status for a Distinct Population Segment of Anadromous Atlantic Salmon (Salmo salar) in Seven Maine Rivers

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; and Fish and Wildlife Service (FWS), Interior.

ACTION: Proposed rule.

SUMMARY: The NMFS and the FWS (collectively, the Services) have completed a status review of U.S. Atlantic salmon populations and identified a distinct population segment (DPS) in seven Maine rivers. Atlantic salmon in these rivers are likely to become endangered in the foreseeable future and therefore are being proposed for listing as threatened pursuant to the Endangered Species Act of 1973 (Act). This proposed rule includes joint regulations which apply all prohibitions of 50 CFR 17.31 to the DPS, but allows exceptions for incidental take under sections 4(d) and 10 of the Act. The special rule allows for a state plan, approved by the Services, to define the manner in which certain activities could be conducted without violating the Act. If this proposed listing is finalized, the protective measures of the Act will extend to the Atlantic salmon in the seven rivers, and a recovery plan will be prepared and implemented.

DATES: Comments from all interested parties must be received by December 28, 1995. Public hearing requests must be received by November 13, 1995.

ADDRESSES: Comments and materials concerning this proposed rule and requests for public hearings should be sent to the Chief, Division of Endangered Species, FWS, 300 Westgate Center Drive, Hadley, Massachusetts 01035, or the Chief, Habitat and Protected Resources Division, NMFS, 1 Blackburn Drive, Gloucester, Massachusetts 01930.

FOR FURTHER INFORMATION CONTACT: Paul Nickerson at 413–253–8615 or Mary Colligan at 508–281–9116.

SUPPLEMENTARY INFORMATION:

Background

In October and November 1993, the Services received a petition under the Act to list anadromous Atlantic salmon as endangered. The Services published a notice of finding on January 20, 1994 (59 FR 3067), stating that the petition presented substantial information indicating that the requested action may be warranted. The notice also requested information from the public. A biological review team (Team) comprised of staff from the Services compiled and analyzed all available scientific information pertaining to the status of anadromous Atlantic salmon in the United States. The Team prepared a report entitled "Status Review for Anadromous Atlantic Salmon in the United States, January 1995" (Status Review). The Status Review provides detailed information and references used as the basis for this proposed rule. This Status Review was summarized in a March 17, 1995, finding (60 FR 14410) and is available upon request (see **ADDRESSES**). Further details from the Status Review are provided below. In the March 17, 1995, finding, the Services stated that they would promptly publish a proposed rule with appropriate listing actions.

Life History

Anadromous Atlantic salmon have a relatively complex life history that extends from spawning and juvenile rearing in freshwater rivers to extensive feeding migration in the high seas. As a result, Atlantic salmon have several distinct phases in their life history that are identified by specific behavioral and physiological changes. Adult Atlantic salmon ascend the rivers of New England beginning in spring, a migration that peaks in June and continues into fall. Spawning occurs in late October through November. Good spawning habitat has a gravel substrate and adequate water circulation to keep the eggs well oxygenated. Female anadromous Atlantic salmon produce between 1,500 and 1,800 eggs per kilogram (2.2 pounds) of body weight; on average each female Maine Atlantic salmon produces 7,200 eggs. Eggs hatch in late March or April and the resulting alevins remain in the redd for about six weeks and are nourished by their yolk sac. When the alevins emerge from the gravel about mid-May and begin feeding, they are referred to as fry. Fry become parr as vertical bars become visible on the sides of their bodies. In spring, when the parr are two or three years of age and 12.5 centimeters (cm) to 15 cm (5 to 6 inches) long, they undergo smoltification, a process where morphological and physiological changes prepare the smolt for the transition from fresh to salt water. Most smolts in New England rivers migrate to sea in May and begin their ocean feeding migration.

The marine life history of Atlantic salmon of U.S. origin is not as well understood as the freshwater phase. Scientists have discovered correlations between natural mortality in the marine environment and abiotic factors, particularly sea surface temperature. Atlantic salmon of U.S. origin are highly migratory, undertaking long marine migrations from the mouths of U.S. rivers to the northwest Atlantic Ocean where they are distributed seasonally over much of the region. Upon entry into the nearshore waters of Canada, the U.S. post-smolts become part of a mixture of stocks of Atlantic salmon from various North American streams. Data from commercial harvest indicate that post-smolts overwinter in the southern Labrador Sea and in the Bay of Fundy. Direct sampling during the winter months is needed to better understand post-smolt Atlantic salmon distribution in the North Atlantic. Most Atlantic salmon of U.S. origin spend two winters in the ocean before returning to fresh water for spawning. Those that return after only one year at sea are called grilse.

Consideration as a "Species" Under the Act

The Act defines species as "any species of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife that interbreeds when mature." This definition allows for the recognition of distinct population segments at levels below taxonomically recognized species or subspecies. To qualify as a DPS, a population (or group of populations) of indigenous Atlantic salmon must be reproductively isolated from conspecific

populations and must be biologically significant.

The Team determined that the Atlantic salmon populations in the Sheepscot, Ducktrap, Narraguagus, Pleasant, Machias, East Machias, and Dennys rivers, are, as a group, reproductively isolated, and therefore, discrete. These populations are also, as a group, biologically significant. The Services are proposing that these seven populations be listed as one DPS but that management be conducted on a watershed basis. Since the persistence of Atlantic salmon in the Kennebec River, Penobscot River, Tunk Stream, and St. Croix River and their link to native populations warrant further study, these populations were designated as category 2 candidate species by FWS and candidate species by NMFS (60 FR 14410, March 17, 1995). Since that time, the FWS has clarified that only species for which it has sufficient information on biological vulnerability and threat(s) to support issuance of a proposed listing are designated as candidate species. This definition is synonymous with the FWS' former category 1 candidate species. Former category 2 species are regarded by the FWS as species of concern, and are not, at present, candidates for listing. NMFS maintains its candidate species list, however, NMFS and FWS plan to issue joint guidance on candidate species soon. Specific information needs for these four rivers are identified below under Available Conservation Measures.

A critical factor in determining the significance of the river populations of U.S. Atlantic salmon is the continuous persistence of a substantial component of native stock reproduction. If the documented absence of wild Atlantic salmon from natal habitat were to occur for at least two generations (12 years), this would suggest the total loss of the river's native population even under the most conservative approach. Such a gap has not occurred in the DPS rivers. While it is unlikely that U.S. Atlantic salmon exist in a genetically pure native form in any of the DPS rivers, these stocks represent a significant component of the species' genetic legacy.

Naturally reproducing populations of Atlantic salmon in U.S. rivers are substantially reproductively isolated from those in Canada. Within the United States, Atlantic salmon populations exhibit strong fidelity to natal streams. Although there is some evidence of straying, recolonization from adjacent watersheds appears to be minimal. Gene flow between wild populations, or stock transfers, was determined not to have been sufficient to have eliminated all historic differences. As a group, the seven populations composing the DPS meet the criterion of reproductive isolation.

In salmonids, adaptations to local ecosystems are important to the survival of populations and the survival of the species throughout its range. An examination of U.S. populations of Atlantic salmon provides evidence of their distinctness from stocks in Canada and northern Europe. Historically, adult spawners in U.S. rivers have been predominantly 2-sea-winter fish, whereas many Canadian and European stocks return predominantly after 1 year at sea. The riverine habitat occupied by U.S. Atlantic salmon is distinctive in that it is located at the southern extent of the range of the species in North America. U.S. rivers produce smolts that are younger than those produced in rivers at the northern extreme of the range. Atlantic salmon have persisted in the Sheepscot, Ducktrap, Narraguagus, Pleasant, Machias, East Machias, and Dennys rivers, and, consequently, represent the last known wild remnant of U.S. Atlantic salmon. All of these factors indicate that the DPS is discrete and biologically significant.

Distribution and Abundance

The original range of Atlantic salmon in the United States was from the Housatonic River in Connecticut, north to U.S. tributaries of the St. Johns River in New Brunswick, Canada. The historic Atlantic salmon run in the United States has been estimated to have approached 500,000 fish.

The species began to disappear from U.S. rivers 150 years ago and currently only remnant populations occur in a limited number of rivers in Maine. Construction of hundreds of dams blocked salmon migration and reduced spawning habitat to a fraction of that available historically. Water pollution and overexploitation further reduced the abundance of Atlantic salmon. Indigenous Atlantic salmon in rivers south of the Kennebec River were extirpated by the mid-1800's. In addition, some populations north of the Kennebec River were also extirpated; most of these were in small rivers with less than 1 hectare (2.5 acres) of available nursery habitat. Beginning in the mid-1800's and continuing to the present time, numerous restoration efforts were undertaken. The Connecticut and Merrimack rivers provided nearly 40 percent of historic U.S. Atlantic salmon habitat. These rivers are currently the focus of restoration efforts using nonindigenous stocks, and extensive efforts are being undertaken to provide access to historic habitat.

The North American Salmon Working Group's method for estimating the escapement goal for adequate egg deposition for each river was used. Thus, an escapement goal was determined for each river and the return calculated as a percentage of the escapement goal. Throughout the past 24 years, the Dennys and Narraguagas rivers have had the best returns relative to available habitat, averaging 20 percent of escapement goal. The Pleasant, Sheepscot, and Machias rivers have had returns that averaged between 10 and 12 percent of escapement goal. However, recent downward trends in abundance have put most rivers at less than 10 percent of their respective escapement goals. Only the Narraguagas River has exceeded 10 percent in the past seven years.

The combination of low relative abundance and low numbers relative to spawning requirements demonstrates that the DPS is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations promulgated to implement the listing provisions of the Act (50 CFR part 424) set forth the procedures for adding species to the Federal list. Section 4 also requires that listing determinations be based solely on the best scientific and commercial data available, without reference to possible economic or other impacts of such determinations. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1) of the Act. These factors and their application to the Atlantic salmon DPS are:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

The construction of dams with either inefficient or non-existent fishways was a major cause for the decline of U.S. Atlantic salmon. Dams adversely impact Atlantic salmon by impeding both their upstream and downstream migration, increasing predation, altering the chemistry and flow pattern of rivers, increasing water temperature, and reducing available flow downstream. Currently, there are no dams on rivers in the DPS that have the potential to adversely impact the species. The Machias and Dennys rivers have natural falls that may partially bar salmon migration at certain flows. Beaver dams

and debris dams have been documented on many of the rivers within the DPS. Typically, these are partial obstructions and are ephemeral in nature.

One of the predominant land uses of central and northern coastal Maine watersheds is the growth and harvest of forest products. Forest management practices can cause numerous short- and long-term negative impacts to Atlantic salmon. Deforestation alters the water retention of watersheds resulting in high seasonal runoff followed by inadequate river flows. The removal of riparian vegetation reduces shading and increases water temperature. Poor logging practices and road construction adjacent to streams results in the deposition of substantial loads of woody debris and silt into waterways. Insecticides used to control insect infestations and herbicides used to manage competing vegetation enter waterways and adversely affect salmon. While historic forest practices have had harmful effects on Atlantic salmon in certain watersheds, numerous state and Federal laws now exist to prevent adverse impacts to Atlantic salmon and other aquatic species. Current forest practices are not considered a major threat to Atlantic salmon.

Another significant land use in eastern Maine watersheds is lowbush blueberry agriculture. Water extraction and diversion from rivers and streams for blueberry cultivation can make habitat unsuitable for Atlantic salmon. The herbicide hexazinone (velpar) is applied to blueberry fields to control competing vegetation. Blueberry barrens are also treated with fungicides and insecticides to prevent disease and control insect pests. Such chemical spraying can cause direct mortality of juvenile Atlantic salmon or adversely affect salmon if chemicals drain into waterways and reduce populations of aquatic insects, an important food source for salmon. With assistance from the Cooperative Extension Services of the University of Maine and the Natural Resource Conservation Service, numerous measures are being implemented to reduce the potential for contamination of waterways from blueberry cultivation. Current agricultural practices are not considered a major threat to Atlantic salmon.

Many of the eastern Maine rivers have deposits of peat within their watersheds. Commercial peat mining has the potential to adversely affect salmon habitat through the release of peat fibers, arsenic, and other chemical residues present in peat deposits. Further study is necessary to determine the impacts, if any, of peat mining on Atlantic salmon and Atlantic salmon habitat.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Historically, the marine exploitation of U.S.-origin Atlantic salmon occurred primarily in foreign fisheries. U.S.-origin Atlantic salmon have been documented in the harvests of West Greenland, New Brunswick, Nova Scotia, Newfoundland, and Labrador fisheries. The Newfoundland and Labrador fisheries constituted the majority of the harvest and intercepted the highest percentages of U.S.-origin Atlantic salmon. In the absence of West Greenland and Canadian interception fisheries, returns of U.S. Atlantic salmon could potentially increase two-fold. In Canada, a 5-year moratorium is in place in Newfoundland and licenses are being purchased by the government. The Labrador fishery is now managed by quotas, and the 1993 quota represents a reduction of 92 percent from that of the 1990 quota level. In 1982, the North Atlantic Salmon Conservation Organization (NASCO) was formed for the purpose of managing salmon through a cooperative program of conservation, restoration and enhancement of North Atlantic stocks. NASCO accepted an agreement in 1993 that set quotas on the harvest off West Greenland with the goal of reaching target spawning escapements for North American stocks. During the next three years of the management plan, the number of spawners needed to sustain North American stocks of Atlantic salmon (194,000) will be protected by adjusting the West Greenland quota.

In 1987 the New England Fishery Management Council prepared a Fishery Management Plan (FMP) to establish explicit U.S. management authority over all Atlantic salmon of U.S. origin in Federal waters. The FMP prohibits the possession of Atlantic salmon in the exclusive economic zone, the area between 3 and 200 miles off the U.S. coastline. During the 1970s, recreational fishermen were harvesting as much as 15 to 25 percent of the Atlantic salmon returning annually to home waters. Currently state law allows only a catch and release fishery for Atlantic salmon, and no salmon fishing is authorized on the Pleasant River. Multi-sea-winter salmon incur some mortality from catch-and-release fishing and parr are vulnerable to incidental hooking mortality or illegal harvest by trout anglers. Poaching also poses a serious threat to depressed populations of Atlantic salmon in New England rivers.

C. Disease or Predation

During their various life stages, Atlantic salmon are preyed upon by numerous species of fish, birds, and mammals and also compete with other species of fish. Major freshwater predators on Atlantic salmon include brook trout, brown trout, eel, burbot, northern pike, chain pickerel, smallmouth bass, belted kingfisher, heron, common and red-breasted merganser, osprey, herring and greater black-backed gull, otter and mink. Documented predators in the estuarine and marine environments include striped bass, shark, skate, ling and Atlantic cod, pollock, whiting, garfish, double-crested cormorant, European cormorant, harbor seal, gray seal, harp seal, and ringed seal. The effects and magnitude of competition and predation in the riverine, estuarine, and marine environments are not known.

Atlantic salmon are susceptible to a number of diseases and parasites that can result in high mortality. Freshwater external parasites of Atlantic salmon are the gill maggot, freshwater louse, leaches, and the skin parasite *Gyrodactylus salaris*, while internal parasites include flukes, tapeworms, spiny-headed worms and roundworms. Ocean parasites include the sea louse and sea lamprey. Atlantic salmon are susceptible to numerous bacterial, viral and fungal diseases, including furunculosis, bacterial kidney disease and vibriosis. Disease-related mortality is primarily documented for hatcheries and aquaculture facilities. Disease epizootics in wild salmon are uncommon. In New England, furunculosis is the only known source of disease-related mortality in wild Atlantic salmon.

D. Inadequacy of Existing Regulatory Mechanisms

Many Federal and state laws and programs have affected the abundance, health and survival of anadromous Atlantic salmon populations in the United States. However, they have not prevented the decline of the species. The effectiveness of certain existing laws and regulations, which are summarized in the status review, could be strengthened by more stringent implementation and enforcement. Aquaculture facilities are located within 20 kilometers (km) (12 miles) of the mouths of five of the rivers within the DPS. Atlantic salmon that have been released or that have escaped from aquaculture pens are known to have entered some of these rivers. The escape of fish from Atlantic salmon aquaculture operations could pose a threat to the

genetic integrity of Atlantic salmon within the DPS. In addition, concentrations of aquaculture salmon increase the vulnerability of wild stocks to disease. Also, escape of juvenile Atlantic salmon from nearby fish hatcheries may cause a genetic or disease threat to wild salmon.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Scientific evidence suggests that low natural survival in the marine environment is a major factor contributing to the decline of Atlantic salmon throughout North America. Recent research indicates that major seasonal events influence post-smolt survival of Atlantic salmon. It appears that survival of the North American stock complex of Atlantic salmon is at least partly explained by sea surface water temperature, during the period when Atlantic salmon concentrate in winter months in habitat at the mouth of the Labrador Sea and east of Greenland. Until more direct observation can be made on the marine ecology of post-smolts during the winter, the exact mode of mortality will be unknown. Currently, researchers speculate that a combination of factors related to slow growth and increased predation contribute to marine mortality.

Potential genetic impacts of hatchery practices include inbreeding depression, outbreeding depression and domestication. Potential ecological impacts of hatchery practices include competition and predation, displacement of wild fish, altered migratory and spawning behavior, and disease transfer. The practice of stocking fry transferred from other rivers may have exacerbated the decline of the wild population by displacing wild fish. For six of the seven rivers, the average percentage of the run that was of natural origin (wild) was higher during years not influenced by the stocking of fry transferred from other rivers. However, the Services do not believe that stock transfers in the DPS rivers have eliminated all historic characteristics of wild Atlantic salmon. Although past stocking practices may have contributed to the decline of Atlantic salmon in the seven rivers, the Services are committed to ensuring that future hatchery practices contribute to recovery of each river population. Use of river-specific fry stocking on the Penobscot River has boosted the percentage of natural origin fish and is a tool for recovery of the DPS rivers.

In summary, there are basically three major factors which continue to threaten the continued survival of Atlantic salmon within the DPS—poaching, low natural survival of fish during the first winter at sea, and potential impacts from Atlantic salmon aquaculture operations and fish hatcheries to the genetic integrity and disease vulnerability of the DPS.

Basis for Determination

Section 4(b)(1)(A) of the Act states that determinations required by the Act will be made solely on the basis of the best scientific and commercial data available after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction, or on the high seas. The status of the populations of Atlantic salmon in these seven rivers was analyzed by looking at historic and current angler catch, trap data, and redd counts, all of which are experiencing a downward trend. Then, the escapement goal for each river was calculated by estimating the total number of adults that would be required to fully seed the potential habitat. The documented return to these seven rivers was then compared to the escapement goal to arrive at a comparable measure of the status of the stock. Recent downward trends in abundance have placed all of the rivers at less than 10 percent of their escapement goals, with the exception of the Narraguagus which in recent years has ranged from 6 to 19 percent. The combination of low relative abundance and the low numbers relative to escapement goals indicates that these populations are in peril.

The second step was then to examine efforts currently being undertaken on behalf of the species. There are numerous measures underway to prevent the loss of any of the river populations of Atlantic salmon within the DPS. Collectively, these measures have the potential to reduce the likelihood of extinction and enable the Services to propose listing the DPS as threatened rather than endangered. This designation includes all wild and river specific hatchery stock of DPS origin. For purposes of delisting, the DPS is composed of wild fish and hatchery-reared fish that have returned to spawn naturally and successfully in their river of origin. If these measures are not continued or recent downward trends in abundance are not reversed, then the DPS may reach the point of being in danger of extinction and the designation would have to be changed to endangered. Actions underway include the following:

1. Continued development of river specific populations for broodstock and stocking in subsequent years. Currently stocks exist for five of the seven rivers at the Craig Brook National Fish Hatchery.

2. Progeny are being outplanted to specific rivers. In 1995, over 100,000 fry will be stocked into the Dennys, Narraguagus, and Machias rivers.

3. The National Biological Service is conducting a comprehensive genetic study of Atlantic salmon populations throughout North America to identify differences in river populations and to compare wild and hatchery stock.

4. In 1993, the West Greenland Commission of the NASCO accepted the West Greenland Fishery Regulatory Measure. This agreement resulted in the setting of quotas with the goal of reaching target spawning escapements for North American stocks.

5. A private-State-Federal task force has been established to make recommendations on how to reduce threats to wild Atlantic salmon posed by nearby aquaculture operations.

6. An intensive study of the population dynamics and the condition of the freshwater habitat of Atlantic salmon in the Narraguagus River is ongoing. Key objectives include the following: estimate the number of adults returning to the river; determine the level of effort necessary to estimate the number of parr; inventory habitat; determine the abundance and diversity of macroinvertebrates; and monitor trends in water quality.

7. NMFS is conducting research on the early marine life history of Atlantic salmon populations in the State of Maine's nearshore and marine waters. The key objective of the study is to better understand the behavior and feeding relationships of post-smolts during their first few weeks at sea.

8. Recent research conducted by the NMFS Northeast Fisheries Science Center in coordination and participation with the International Council for the Exploration of the Seas, indicates that major seasonal events influence post-smolt survival. Additional research is ongoing to identify the processes involved.

9. A number of private land management agencies in Downeast Maine have formed a non-profit entity called Project SHARE (Salmon Habitat and River Enhancement). The group, which includes major forest and agriculture industry representatives, is committed to improving freshwater habitat for the Atlantic salmon in eastern Maine.

10. The State of Maine, FWS, and the National Fish and Wildlife Foundation have joined to fund habitat monitoring and improvement projects in the rivers, including spawning barrier removal, replacement of water control structures, temperature and water quality monitoring, and riparian zone protection and rehabilitation.

Proposed Determination

The Act defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(b)(1)(a) of the Act requires that determinations regarding whether any species is threatened or endangered be based solely on the best scientific and commercial information available after conducting a review of the status of the species and after taking into account those efforts, if any, being made to protect such species.

The Services propose to list the populations of anadromous Atlantic salmon in the Sheepscot, Ducktrap, Narraguagus, Pleasant, Machias, East Machias and Dennys rivers as threatened under the Act. Both the naturally reproducing populations of Atlantic salmon in these seven rivers and the river specific hatchery populations for these seven rivers are included in the DPS.

Prohibitions and Proposed Protective Measures

With respect to the seven populations of Atlantic salmon proposed for listing, the Services propose to adopt joint regulations which apply all prohibitions of 50 CFR 17.31 to the DPS, allowing exceptions for incidental take under sections 4(d) and 10 of the Act. This regulation applies most section 9 prohibitions and exceptions to threatened species, including protective measures to prohibit taking, interstate commerce, and other Act prohibitions applicable to endangered species, with the exceptions provided under section 10 of the Act. The Services also propose to adopt specific regulations under section 4(d) that will apply to the DPS of Atlantic salmon identified as threatened (see Special Rule).

These prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. The Act and implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. The prohibitions (codified at 50 CFR 17.21 for endangered fish or wildlife), in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Section 17.31 of 50 CFR prohibits certain activities that directly or indirectly affect threatened species. The proposed rule provides that any violation of applicable State law or regulation concerning the taking of Atlantic Salmon will also be a violation of Federal law. By including this provision, the Services intend to notify the public that any State law or regulation concerning the "take" of Atlantic Salmon which is more specific or more protective of a listed species than existing federal law, may be enforced as if it were Federal law pursuant to the Act.

As announced in a recent joint policy (59 FR 34272, July 1, 1994), the Services will identify at the time a final rule is published, to the maximum extent practicable, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within the range of a species. Activities that the Services believe could result in "take" of anadromous Atlantic salmon within the DPS include, but are not limited to, the following:

(1) Targeted recreational and commercial fishing, bycatch associated with commercial and recreational fisheries, and poaching;

(2) Introduction of non-indigenous Atlantic salmon stock or other species not indigenous to the DPS rivers;

(3) Discharges (point and non-point sources) or dumping of toxic chemicals, silt, fertilizers, pesticides, herbicides, heavy metals, oil, organic wastes or other pollutants into waters supporting the species;

(4) Blockage of migration routes;

(5) Destruction/alteration of the species' habitat (i.e. instream dredging, rock removal, channelization, discharge of fill material, operation of heavy equipment within the stream channel, manipulation of river flow, etc.);

(6) Hatchery practices that are likely to cause genetic, disease, or ecological impacts to the DPS.

The Services believe that, based on the best available information, the following actions will not result in a violation of section 9, provided these activities are carried out in accordance with existing regulations and permit requirements:

(1) Fishing for other species if conducted in conformance with the Atlantic salmon conservation plan required by the special rule and approved by the Services;

(2) Harvest of landlocked Atlantic salmon at locations delineated by the Maine Department of Inland Fisheries and Wildlife; and

(3) Unavoidable losses in river specific hatchery stocks due to standard culture techniques.

(4) Federally approved projects that involve activities, such as instream dredging, rock removal, channelization, discharge of fill material, operation of heavy equipment within the stream channel, or manipulation of river flow, when such activity is conducted in accordance with any reasonable and prudent measures given by the Services in accordance with section 7 of the Act.

Permits may be issued, under section 10 of the Act, to carry out otherwise prohibited activities involving endangered or threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22, 17.23, 17.31, 222.22, and 222.23 for threatened and endangered fish and wildlife. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, for educational purposes, and/or for incidental take in the course of otherwise lawful activities. Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Chief, Division of Endangered Species in the FWS Hadley, Massachusetts, office, or the Chief, Protected Resources Division, in the NMFS Gloucester, Massachusetts, office (see **ADDRESSES**).

Special Rule

The implementing regulations for threatened wildlife under the Act incorporate the section 9 prohibitions for endangered wildlife (50 CFR 17.31 and 50 CFR 222.21), except when a special rule promulgated pursuant to section 4(d) applies (50 CFR 17.31 (c)). Section 4(d) of the Act provides that whenever a species is listed as a threatened species, the Services shall issue regulations deemed necessary and advisable to provide for the conservation of the species. Conservation means the use of all methods and procedures necessary to bring the species to the point at which the protections of the Act are no longer necessary. Section 4(d) also states that the Services may, by regulation, extend

to threatened species all prohibitions provided for endangered species under section 9(a) of the Act.

Pursuant to section 4(d) of the Act and 50 CFR 17.31(c), the Services propose to define the conditions under which the incidental take of Atlantic salmon resulting from activities regulated by State and local governments would not violate section 9 of the Act. Under the special rule, incidental take of Atlantic salmon when conducting otherwise lawful activities addressed in an Atlantic salmon conservation plan prepared by the State of Maine and approved by the Services, would not be considered a violation of section 9 of the Act, provided the Services determine that such a plan is consistent with the criteria for an "incidental take" permit pursuant to section 10(a)(2)(B) of the Act, 50 CFR 17.32(b)(2), and 50 CFR 222.22(c)(2).

The intent of the special rule is to provide the State of Maine an opportunity to maintain the lead role in the management of activities that could impact Atlantic salmon in the DPS. The Services are encouraging the State to identify such activities and include them in a conservation plan to be submitted to the Services any time after the publication of this notice. Once the plan is received, the Services will publish a notice of availability and accept public comments on that plan. The Services will consider public comments and the criteria outlined in this section to determine whether the plan will reduce threats and promote the conservation of Atlantic salmon in the DPS. The Services will work closely with Maine officials to revise or strengthen sections of the plan as may be necessary prior to plan approval.

The Services recommend that the Atlantic salmon conservation plan contain, but not be limited to, the following sections—(1) a discussion of the lawful activities having the potential to incidentally take Atlantic salmon, (2) activities such as recreational fishing targeting species other than Atlantic salmon, habitat modification, and aquaculture, and (3) the potential impacts to the DPS and provisions to minimize those impacts.

Using recreational fishing as an example, the State could identify various ongoing fishing activities in the seven rivers (bass, trout, etc.) and the likelihood of each to incidentally catch an Atlantic salmon adult or juvenile. The plan would address the time of year of each fishery, location, and gear used. The plan should identify acceptable levels of incidental take, measures that will be implemented to monitor incidental take, and measures to further restrict the fishing activity should such take exceed that allowed. State law enforcement activities to protect Atlantic salmon in the seven rivers should be identified. In addition, the plan should include outreach activities that will be conducted to enlist angler support and educate anglers on the proper method for releasing incidentally caught Atlantic salmon.

If aquaculture is included in the plan, then the plan should include an evaluation of the potential for incidental take to occur. A take could result, for example, from the interbreeding of escaped net-pen reared salmon and DPS salmon, the transfer of disease, or the disruption of wild redds. An assessment of the likelihood of interaction should include information on past escapement of Atlantic salmon either from cages or hatcheries, and any documentation as to the presence of the aquaculture fish in the seven rivers identified. Measures that will be required by the State to minimize interactions between DPS and net-pen reared Atlantic salmon should be identified and could include such provisions as cage monitoring and reporting of escapees and the subsequent monitoring of rivers, improved cage design, placement of weirs in the seven rivers, disease certification, siting constraints, broodstock selection, sterilization, marking of net-pen fish, and law enforcement activities.

Although the Status Review does not identify habitat modification in the seven rivers in the DPS as a major threat to Atlantic salmon, the State prepared conservation plan should discuss state authorized activities that could potentially modify habitat and incidentally take Atlantic salmon. This discussion should address impacts of water withdrawals and land use practices on spawning habitat, along with State efforts, both existing and planned, to reduce such impacts. This section might include a brief summary of existing regulations, permit review procedures, water quality monitoring activities, public outreach activities, and voluntary landowner efforts such as Project SHARE, which focus on habitat protection and improvement. Finally, the plan should include provisions for identifying and correcting any situations which are likely to be causing incidental take and monitoring the effects of such corrective actions. The conservation of the DPS must be the basis for all provisions of the plan.

The standards the Services will use to evaluate the State plan are consistent with those set forth in 50 CFR 17.32(b)(2) and 50 CFR 222.22(c)(2), which define the issuance criteria for obtaining a permit to incidentally take listed wildlife species under section 10(a)(1)(B) of the Act. The six criteria are:

(1) Any taking will be incidental to otherwise lawful activities and not the purpose of such activities. Any taking of Atlantic salmon in the seven rivers as described in the plan would have to occur inadvertently while conducting an activity whose purpose was not to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect Atlantic salmon from the seven river populations. The taking must not be deliberate and purposeful. The plan must include an analysis of alternatives that would not result in take and an explanation of why these are not being used. The plan should include the State regulations that govern these fisheries as well as information on how those regulations are promulgated, enforced, and modified.

(2) The plan should, to the maximum extent practicable, minimize and mitigate the impacts of any proposed incidental take. Compliance with this standard involves a planning strategy that emphasizes avoidance of impacts to Atlantic salmon, provides measures to minimize potential impacts by modifying practices (e.g. in the case of aquaculture it could include improved cage design, increased monitoring and reporting of escapees, etc.), and details compensation measures needed to offset unavoidable impacts (e.g., weirs or other means to recapture escapees).

(3) The plan should be adequately funded and contain provisions to deal with unforeseen circumstances. A summary of the funding that will be available to implement provisions of the plan, including enforcement and monitoring, should be provided. The plan should outline how it will be determined that there is an unforeseen problem and should include the specific steps that will be taken to correct that problem.

(4) Any taking allowed under the plan should not appreciably reduce the likelihood of survival and recovery of Atlantic salmon in the wild. This criterion is equivalent to the regulatory definition of "jeopardy" under section 7(a)(2) of the Act and means to engage in any activity that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of the DPS. In the case of incidental catch of Atlantic salmon, the plan must include an assessment of the potential for Atlantic salmon to be incidentally caught by anglers targeting other species, the likelihood of mortality to the Atlantic salmon that is caught and

released (including the potential for it to be caught more than once), and the resulting impact to the river population of Atlantic salmon. In the case of aquaculture, the plan must include an assessment of the potential for Atlantic salmon to be taken as a result of ongoing aquaculture operations and an assessment of the possible impacts to the affected river population of Atlantic salmon.

(5) The plan should ensure that other measures that the Services may require as being necessary or appropriate will be provided. These measures should become apparent during plan development through coordination among the Services, the State and any other plan participants and will likely include terms and conditions for monitoring implementation of the plan to ensure that its requirements and the requirements of the Act are met.

(6) The Services are assured that the plan will be implemented. The plan should specify how the State agencies will exercise their existing authorities to adhere to the commitments made in the plan. Any violations could be a basis for revocation of the Services' concurrence with the plan.

Once approved by the Services, the conditions contained in the approved plan will be the conditions, pursuant to section 4(d), under which the incidental take of Atlantic salmon in the seven rivers would not be a violation of section 9.

The Services and the State will monitor the implementation of the plan and will conduct annual reviews to assess progress, identify problems and recommend corrective action. If the Services determine that the plan is not being effectively implemented, they will discuss their concerns with appropriate State officials and jointly determine the nature and timing of corrective action. If corrective action is not taken within 90 days of such discussion, plan approval may be revoked either partially or completely. The Services will publish the findings for such revocation in the **Federal Register** and provide for a 30-day public comment period prior to revocation. Such revocation would result in reinstatement of the take prohibitions made applicable through 50 CFR 425.21(a)(1).

At this time, different procedures exist between the Services for authorizing the incidental take of listed species. The FWS provides such authorization through its Cooperative Agreement with the State of Maine under section 6 of the Act. The NMFS provides such authorization directly under section 10 of the Act. The language of the proposed rule at 50 CFR 425.21(b)(1) reflects the existing differences. It is the intent of the Services to ensure that these procedures are streamlined and to provide the public with a "one-stop" authorization process should this proposal be made final and an approved State Atlantic salmon conservation plan be implemented.

Available Conservation Measures

Conservation measures provided for species listed as endangered or threatened under the Act include recovery actions, Federal agency consultation requirements, and prohibitions on taking. Recognition through listing promotes conservation actions by Federal and State agencies and private groups and individuals.

Section 7(a)(4) of the Act requires that Federal agencies confer with the Services on any actions likely to jeopardize the continued existence of a species proposed for listing and on actions resulting in destruction or adverse modification of proposed critical habitat. For listed species, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Services. Consultations will be conducted on a river-specific basis pursuant to identification of river specific recovery units within the DPS.

Examples of Federal actions that may be affected by this proposal include U.S. Army Corps of Engineers (COE) section 404 permitting activities under the Clean Water Act, and COE section 10 permitting activities under the Rivers and Harbors Act.

In addition to the actions identified under Basis for Determination, the following general conservation measures could be implemented to help conserve the species. This list does not constitute the Services' interpretation of the entire scope of a recovery plan under section 4(f) of the Act.

(1) Further efforts could be made to ensure that water extractions and diversions for agriculture do not adversely affect habitat of DPS Atlantic salmon. In addition, all water diversion intake structures available to downstream migrating Atlantic salmon could be screened.

(2) Atlantic salmon aquaculture facilities located less than 20 km (12 miles) from the mouths of the Narraguagus, Pleasant, Machias, East Machias and Dennys rivers could be encouraged to implement stringent disease protocols, sterilize fish, change broodstock origin, mark net pen reared fish, install and maintain weirs at the mouths of rivers to exclude escaped aquaculture fish, and/or develop and implement plans to safeguard against the accidental release (escape) of aquaculture fish.

(3) Predator species could be controlled.

(4) For candidate species, or species of concern for FWS (see 60 FR 14410, March 17, 1995), restoration efforts will continue on the Penobscot and St. Croix rivers. Studies will be conducted to determine the presence, origin, and genetic composition of wild Atlantic salmon in the Kennebec, Penobscot, and St. Croix rivers, and Tunk Stream. An intensive survey of the Tunk Stream watershed is needed to determine if Atlantic salmon are still present. Better documentation of wild abundance and natural reproduction of Atlantic salmon is required for all four rivers.

Should the proposed listing be made final, protective regulations under the Act would be put into effect and a recovery program would be implemented. The Services recognize that to be successful, protective regulations and recovery programs for Atlantic salmon will need to be developed in the context of conserving aquatic ecosystem health. The Services, the State of Maine, and the private sector must cooperate to conserve the listed populations and the ecosystems upon which they depend. The Services encourage non-federal landowners to assess the impacts of their actions on Atlantic salmon. In particular, the Services acknowledge and fully support the ongoing efforts to involve stakeholders (industry representatives, landowner representatives, local and state governments and Federal biologists) through Project SHARE and the ad hoc task force to address aquaculture and wild stock interactions.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (1) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a species at that time it is listed upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3)(a) of the Act requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Designations of critical habitat must be based on the best scientific data available and must take into consideration the economic and other relevant impacts of specifying any particular area as critical habitat. While the Team has completed its analysis of the biological status of anadromous Atlantic salmon in the United States, it has not been able to address either the prudency or determinability of critical habitat designation. Therefore, during the comment period for this listing proposal the Services will seek additional agency and public input on critical habitat, along with information on the proposed listing of Atlantic salmon in the DPS rivers. The Services will use this and other information in formulating a decision on critical habitat designation for the Atlantic salmon.

Public Comments Solicited

To ensure that the final action resulting from this proposal will be as accurate and effective as possible, the Services are soliciting comments and information from the public, other concerned governmental agencies, the scientific community, industry, and any other interested parties. Specifically, the Services are soliciting information regarding: (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species; (2) the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act; (3) additional information concerning the range, distribution, and population size of this species; (4) current or planned activities in the subject area and their possible impacts on this species; (5) additional efforts being made to protect native, naturally-reproducing populations of Atlantic salmon; (6) relationship of existing hatchery populations to natural populations within the DPS and in the four river populations designated as candidate species (60 FR 14410, March 17, 1995), or species of concern, for FWS; (7) the development of a special section 4(d) regulation to allow incidental take of Atlantic salmon in accordance with an approved State conservation plan; and (8) additional information on the status and threats to the anadromous Atlantic salmon in the Penobscot, Kennebec, and St. Croix rivers and Tunk Stream.

The Services are also requesting information on areas that may qualify as critical habitat for the identified DPS of Atlantic salmon. Areas that include the physical and biological features essential to the recovery of the species should be identified. Areas outside the present range should also be identified if such areas are essential for the conservation of the species. Essential features should include, but are not limited to: (1) Space for individual and population growth; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and rearing of offspring; and (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species.

For areas potentially qualifying as critical habitat, the Services are requesting information describing: (1) The activities that affect the area or could be affected by the designation, and (2) the economic costs and benefits of restrictions on Federal activities that are likely to result from the designation.

The economic cost to be considered in the critical habitat designation under the Act is the probable economic impact "of the (critical habitat) designation upon proposed or ongoing activities" (50 CFR 424.19). The Services must consider the incremental costs specifically resulting from a critical habitat designation that are above the economic effects attributable to listing the species. Economic effects attributable to listing include actions resulting from section 7 consultations under the Act to avoid jeopardy to the species and from the taking prohibitions under section 9 of the Act. Comments concerning economic impacts should distinguish between the costs of listing from the incremental costs that can be directly attributable to the designation of specific areas as critical habitat.

Final promulgation of the regulation(s) on this species will take into consideration the comments and any additional information received by the Services, and such communications may lead to a final regulation that differs from this proposal.

National Environmental Policy Act

The FWS has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969 (NEPA), need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. The notice for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244). Sections 4(b)(1) of the Act restricts the information that may be considered when assessing species for listing. Based on this limitation and the opinion in *Pacific Legal Foundation* v. *Andrus*, 657 F.2d 829 (6 Cir. 1981), the NMFS has determined that listing actions under the Act are excluded from the normal requirements of the NEPA.

Classification

The Conference Report on the 1982 amendments to the Act notes that economic considerations have no relevance to determinations regarding the status of species, and that the Regulatory Flexibility Act and the Paperwork Reduction Act are not applicable to the listing process. Similarly, listing actions are not subject to the requirements of Executive Order 12612 and are exempt from review under Executive Order 12866.

The proposed special rule in 50 CFR part 425 was reviewed under Executive Order 12866. The Services certify that the proposed revisions to 50 CFR 425 will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Significant adverse impacts are not expected as a result of the proposed rule because the rule is intended to reduce the likelihood of persons conducting otherwise lawful activities being in violation of section 9 of the Act. No direct costs, enforcement costs, information collection, or recordkeeping requirements are required by this proposed rule beyond those already required by existing regulations. The proposed rule does not contain any recordkeeping requirements as defined by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and does not require a Federalism assessment under Executive Order 12612 because it would have no significant Federalism effects described in that order. Finally, the Services have determined that the proposed regulation does not require the preparation of a Takings Implication Assessment under the requirements of Executive Order 12630, "Government Actions and Interference with Constitutionally Protected Property Rights."

Authors

Authors of this document are Mary Colligan of the NMFS and Paul Nickerson of the FWS.

List of Subjects in

50 CFR Part 17

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

50 CFR Part 227

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

50 CFR Part 425

Administrative practice and procedure, and Endangered and threatened species.

Proposed Regulation Promulgation

Accordingly, the Services hereby propose to amend part 17, subchapter B of chapter I and part 227, subchapter C; to add part 425, subchapter B, title 50 of the Code of Federal Regulations, as set forth below. The FWS amendments to part 17 are listed first, followed by the NMFS amendments to part 227. The new part 425 is listed last.

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.11(h) is amended by adding the following, in alphabetical order under FISHES, to the List of Endangered and Threatened Wildlife to read as follows:

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
Salmon, Atlantic	*Salmo salar*	U.S.A., Canada, Greenland, western Europe.	U.S.A. (ME) Natural and river-specific hatchery populations in the Dennys, East Machias, Machias, Pleasant, Narraguagus, Sheepscot, Ducktrap Rivers.	T	NA	NA	17.44(v), 227.13, 425.21

3. In § 17.44 a new paragraph (v) is added to read as follows:

§ 17.44 Special rules—fishes.

* * * * *

(v) Atlantic salmon (*Salmo salar*). All prohibitions and exceptions thereto regarding the distinct population segment of Atlantic salmon listed at 50 CFR 17.11 and 50 CFR 227.4(m) are specified in regulations jointly promulgated by the Fish and Wildlife Service and the National Marine Fisheries Service at 50 CFR 425.21.

PART 227—THREATENED FISH AND WILDLIFE

1. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 et seq.

2. In § 227.4 a new paragraph (m) is added to read as follows:

§ 227.4 Enumeration of threatened species.

* * * * *

(m) Natural and river-specific hatchery populations of Atlantic salmon (*Salmo salar*) in the Dennys, Ducktrap, E. Machias, Machias, Narraguagus, Pleasant and Sheepscot rivers, Maine.

3. In part 227 a new § 227.13 is added to read as follows:

§ 227.13 Atlantic Salmon.

All prohibitions and exceptions thereto regarding the distinct population segment of Atlantic salmon listed at 50 CFR 17.11 and 50 CFR 227.4(m) are specified in regulations jointly promulgated by the Fish and Wildlife Service and National Marine Fisheries Service at 50 CFR 425.21.

1. Part 425 is added to read as follows:

PART 425—JOINT REGULATIONS FOR ENDANGERED AND THREATENED SPECIES

Subpart A—General Provisions

Sec.

425.1 Purpose.
425.2 Scope.
425.3 Definitions.
425.4 Enumeration of jointly listed endangered and threatened species.

Subpart B—[Reserved]

Subpart C—Joint Regulations Governing Jointly Listed Threatened Species

425.21 Atlantic salmon.

Authority: The Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*, as amended.

Subpart A—General Provisions

§ 425.1 Purpose.

The regulations contained in this part identify the species under the joint jurisdiction of the Secretary of Commerce and the Secretary of the Interior which have been determined to be endangered or threatened species under the Endangered Species Act of 1973 and establish rules and procedures to govern activities involving the species.

§ 425.2 Scope.

(a) The regulations contained in this part apply only to the endangered and threatened species enumerated in § 425.4.

(b) The provisions of this part are in addition to, and not in lieu of, other applicable regulations of Chapters I and II (title 50).

§ 425.3 Definitions.

(a) Act means the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

(b) Atlantic salmon means the distinct population segment of Atlantic salmon listed in § 425.4(b).

(c) The Services means the Director of the Fish and Wildlife Service and the

Assistant Administrator for Fisheries, National Marine Fisheries Service.

§ 425.4 Enumeration of jointly listed endangered and threatened species.

(a) [Reserved]

(b) Threatened species—A distinct population segment of Atlantic salmon composed of natural and river-specific hatchery populations from the Dennys, Ducktrap, East Machias, Machias, Narraguagus, Pleasant, and Sheepscot rivers, Maine.

Subpart B—[Reserved]

Subpart C—Joint Regulations Governing Jointly Listed Threatened Species

§ 425.21 Atlantic salmon.

The following provisions shall govern the activities involving Atlantic salmon:

(a) *Prohibitions.* (1) Except as provided in paragraph (b) of this section, all provisions of 50 CFR 17.31(a–b) shall apply to the distinct population segment of Atlantic salmon enumerated at 50 CFR 425.4(b). For the purposes of this section, any reference to the "Director" or the Fish and Wildlife Service shall mean "Services" as defined at 50 CFR 425.3(c). Reports required under § 17.21(c)(4) should also be sent to National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of the species will also be a violation of the Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import or export, by any means whatsoever, any such species taken in violation of applicable State fish and wildlife laws or regulations.

(4) No person shall attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (a) (1) through (3) of this section.

(b) *Exceptions.* (1) The Services may issue incidental take permits or permits authorizing activities which would otherwise be unlawful under paragraphs (a) (1) through (4) of this section for education purposes, scientific purposes, the enhancement or propagation for survival of Atlantic salmon, zoological exhibition, and other conservation purposes consistent with the Act in accordance with 50 CFR 17.32 and 50 CFR part 222, subpart C, Endangered Fish and Wildlife Permits, and pursuant to a section 6 Cooperative Agreement with the State of Maine, if applicable.

(2) Incidental take of Atlantic salmon will not be considered unlawful under paragraphs (a) (1) through (4) if it results from activities conducted in accordance with:

(i) A State plan to conserve Atlantic salmon that is approved by the Services pursuant to paragraph (b)(3) of this section, and

(ii) Implementing State regulations specified in paragraph (b)(3)(iii) of this section.

(3) State plan.

(i) Upon receipt of a State plan, the Services will publish a notice of availability and allow for a 60-day comment period.

(ii) In determining whether to approve a State plan to conserve the Atlantic salmon, the Services shall consider public comments received and evaluate whether the plan meets the criteria in § 17.32(b)(2) and 50 CFR Part 222, subpart C, Endangered Fish and Wildlife Permits for determining whether to issue an incidental take permit. At a minimum, the plan should contain the following information:

(A) Description of the legal activities having a potential to incidentally take Atlantic salmon;

(B) Description of the potential impact of these activities to Atlantic salmon;

(C) Provisions for minimizing the potential impact on and for promoting the conservation of Atlantic salmon;

(D) Necessary oversight requirements; and

(E) Conditions or criteria that would trigger the immediate cessation of such activities because of the potential negative impact on Atlantic salmon.

(iii) The Services will not approve the plan until activities which are authorized and activities which are prohibited are codified into the State's fish and wildlife regulations.

(iv) The Services will monitor the implementation of the plan and will conduct annual reviews to assess progress, identify problems, and recommend corrective action. If the Services determine that the plan is not being effectively implemented, the concerns will be discussed with appropriate State officials and the nature and timing of corrective action will be jointly determined. If corrective action is not being implemented within 90 days of such discussions, plan approval and authorization for any exceptions to prohibitions on the taking of Atlantic salmon may be revoked either partially or completely. The Services will publish the findings for such revocation in the **Federal Register** and provide for a 30-day public comment period prior to revocation.

Dated: September 26, 1995.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

Dated: September 21, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–24319 Filed 9–28–95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 424

[I.D. 092595A]

Endangered and Threatened Species; Proposed Status for the West Coast Coho Salmon; Public Hearing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: NMFS is announcing dates and locations for public hearings concerning the proposed threatened listing of west coast coho salmon (*Oncorhynchus kisutch*) under the Endangered Species Act (ESA). Hearings on the proposed listings will provide the opportunity for the public to give comments and will permit an exchange of information and opinion among interested parties.

DATES: Written comments will be accepted until October 23, 1995. The meetings on the proposed listings will be held in October. See **SUPPLEMENTARY INFORMATION** for the specific dates and times of the hearings.

ADDRESSES: Send written comments to Garth Griffin, Environmental and Technical Services Division, NMFS, 525 NE Oregon Street - Suite 500, Portland, OR 97232-2737. Public hearings on the proposed listings will be held in Oregon, Washington, and California. See **SUPPLEMENTARY INFORMATION** for the specific locations of the hearings.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, 503–231–2005; Craig Wingert, (310) 980–4021; or Marta Nammack, 301–713–1401.

SUPPLEMENTARY INFORMATION: On July 25, 1995, NMFS issued a proposed rule to list three evolutionarily significant units (ESUs) of west coast coho salmon (*Oncorhynchus kisutch*) as threatened under the ESA (60 FR 38011). The three coho salmon ESUs proposed for listing include: (1) Oregon coast, (2) southern

Oregon/northern California coasts, and (3) central California coast. In addition, NMFS has determined that two coho salmon ESUs warrant designation as candidates for listing due to uncertainty regarding their distribution and status. The two coho salmon ESUs proposed for candidate status include: (1) Puget Sound/Strait of Georgia, and (2) lower Columbia River/southwest Washington coast. NMFS has determined that the remaining coho salmon ESU, northwest Olympic Peninsula, WA, is presently neither threatened nor endangered. The ESA implementing regulations state that the Secretary of Commerce "shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list * * *a species" (50 CFR 424.16 (c)(3)).

The public will have the opportunity to provide oral and written testimony at the public hearings. Written comments on the proposed rule may also be submitted to Garth Griffin (see **ADDRESSES** and **DATES**).

The hearings are scheduled from 6 p.m. to 9 p.m. as follows:

1. Wednesday, October 11, 1995—Hatfield Marine Science Center—Meeting Room 9, 2030 Marine Science Drive, Newport, OR
2. Thursday, October 12, 1995—Gold Beach City Hall—City Council Chambers, 510 South Ellensburg Avenue, Gold Beach, OR
3. Monday, October 16, 1995—Northwest Fisheries Science Center—Auditorium, 2725 Montlake Boulevard, East Seattle, WA
4. Tuesday, October 17, 1995—Bonneville Power Administration—Complex Auditorium, 911 NE. 11th Avenue, Portland, OR
5. Tuesday, October 17, 1995—Red Lion Hotel—One Red Lion Drive, Rohnert Park, CA
6. Wednesday, October 18, 1995—Evergreen State College—Lecture Hall 5, 2700 Evergreen Parkway NW, Olympia, WA
7. Wednesday, October 18, 1995—Eureka Inn—518 7th St., Eureka, CA

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Garth Griffin (see **ADDRESSES**).

Dated: September 25, 1995.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–24279 Filed 9–26–95; 4:38 pm]

BILLING CODE 3510–22–F

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50 CFR Part 656

[I.D. 092595C]

Atlantic Striped Bass Fisheries; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings; request for comments.

SUMMARY: NMFS will hold public hearings to receive comments from fishery participants and other members of the public regarding proposed regulations on the harvest and possession of striped bass in the Exclusive Economic Zone of the Atlantic Ocean from Maine through North Carolina.

To accommodate people unable to attend a hearing or wishing to provide additional comments, NMFS also solicits written comments on the proposed rule.

DATES: Written comments on the proposed rule must be received on or before October 27, 1995. The hearings are scheduled as follows:

1. October 12, 1995, 7 to 9 p.m., Manteo, NC
2. October 16, 1995, 7 to 9 p.m., Toms River, NJ

ADDRESSES: Written comments should be sent to William Hogarth, Office of Fisheries Conservation and Management (F/CM), NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Clearly mark the outside of the envelope "Atlantic Striped Bass Comments."

The hearings will be held at the following locations:

1. Manteo—North Carolina Aquarium, Roanoke Island, Manteo, NC 27954
2. Toms River—Ocean County Administration Building, 101 Hooper Ave., Room 119, Toms River, NJ 08754

FOR FURTHER INFORMATION CONTACT: William Hogarth at 301–713–2339.

SUPPLEMENTARY INFORMATION: The proposed regulations are necessary to complement the rules already implemented by Atlantic coastal states through the Atlantic States Marine Fisheries Commission's (Commission) Striped Bass Management Plan. The proposed regulations are based on the fact that the Commission has declared the stocks of striped bass with the exception of Roanoke/Albemarle Sound and Delaware River stocks, recovered and has increased the allowable harvest.

A complete description of the measures, and the purpose and need for the proposed action, is contained in the proposed rule published September 27, 1995 and is not repeated here. Copies of the proposed rule may be obtained by writing (see **ADDRESSES**) or calling the contact person (see **FOR FURTHER INFORMATION CONTACT**).

The purpose of this document is to alert the interested public of the hearings and provide for public participation. The hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to William Hogarth by October 6, 1995 (see **ADDRESSES**).

Authority: 16 U.S.C. 1851 note.

Dated: September 25, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–24310 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 60, No. 189
Friday, September 29, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Office of Risk Management

Consolidated Farm Service Agency; Notice of Specialty Crops Research Studies for Fiscal Year 1996

SUMMARY: The Federal Crop Insurance Corporation ("FCIC") publishes this notice to advise all interested parties of FCIC's research studies. The purpose of the crop research studies is to assist the Corporation in determining the feasibility of formulating crop insurance policies for new crops.

EFFECTIVE DATE: September 29, 1995.

ADDRESSES: Research and Evaluation Branch, FCIC, P.O. Box 419293, Kansas City, Missouri 64141.

FOR FURTHER INFORMATION CONTACT: Vondie W. O'Conner, Jr., Acting Chief, or Floyd Niernberger, Acting Specialty Crop Coordinator, Research and Evaluation Branch, FCIC, P.O. Box 41923, Kansas City, Missouri 64141. Telephone (816) 926–6343.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to name the specialty crops for which research studies will be conducted in Fiscal Year 1996. Proposals for additional crops to study or comments on the crops named can be forwarded to FCIC at the address listed above.

On Friday, April 14, 1995, FCIC published a notice in the **Federal Register** at 60 FR 19015 to outline data collection guidelines to be used in formulating new crop insurance policies. The crop research studies will be conducted consistent with the data collection guidelines and will assist in determining the feasibility of formulating crop insurance policies for specialty crops.

On Wednesday, July 12, 1995, FCIC published a notice in the **Federal Register** at 60 FR 35892 listing twenty-five speciality crops for which research studies were being prepared.

Notice

FCIC hereby gives notice that preliminary feasibility reports on the crops listed below are now available and a copy can be obtained from Vondie W. O'Conner, Jr., Acting Chief, or Floyd Niernberger, Acting Speciality Crop Coordinator, FCIC, Research and Evaluation Branch, P.O. Box 419293, Kansas City, Missouri 64141. Telephone (816) 926–6343.

Asparagus
Cantaloupe
Celery
Forage & Turfgrass Seeds
Hops
Mints
Pecans
Strawberries
Watermelon
Avocados
Carrots
Cherries
Hay
Lettuce
Mushrooms
Pineapple
Sweet Potatoes
Broccoli
Cauliflower
Christmas Trees
Honeydew
Millet
Nursery Crops
Pistachios
Turfgrass Sod

For Fiscal Year 1996, research studies will be done on the following crops and crop groups:

Aquaculture
Buckwheat
Citrus/Tropical Fruit & Trees
Eggplant
Nut & Nut Trees
Sesame Seed
Artichokes
Cabbage
Crambe
Fresh Market Snap Beans
Olives
Spinach
Beets
Chile Peppers
Cucumbers
Garlic
Pumpkin & Squash
Tart Cherries

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), the FCIC herewith gives notice of the specialty crops for which research studies are being conducted in Fiscal Year 1996.

Authority: 7 U.S.C. 1506(l).

Done in Washington, D.C., on September 25, 1995.

Suzette M. Dittrich,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 95–24181 Filed 9–28–95; 8:45 am]

BILLING CODE 3410-08-M

Grain Inspection, Packers and Stockyards Administration

Designation for the Cairo (IL) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces the designation of Cairo Grain Inspection Agency, Inc. (Cairo), to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATES: November 1, 1995.

ADDRESSES: Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the April 21, 1995, **Federal Register** (60 FR 19881), GIPSA asked persons interested in providing official services in the geographic area assigned to Cairo to submit an application for designation. Applications were due by May 30, 1995. Cairo, the only applicant, applied for designation in the entire area they are currently assigned.

GIPSA requested comments on the applicant in the June 30, 1995, **Federal Register** (60 FR 34232). Comments were due by July 31, 1995. GIPSA received two comments by the deadline. Both comments supported designation of Cairo citing the excellent service provided.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act; and according to Section 7(f)(l)(B), determined that Cairo is able to provide official services in the geographic area for which they applied. Effective November 1, 1995, and ending October 31, 1998, Cairo is designated to provide official inspection and Class X and Y weighing services in the geographic area specified in the April 21, 1995, **Federal Register**.

Interested persons may obtain official services by contacting Cairo at 618–734–0689.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: September 22, 1995

Neil E. Porter

Director, Compliance Division

[FR Doc. 95–24050 Filed 9–28–95; 8:45 am]

BILLING CODE 3410–EN–F

Opportunity to Comment on the Applicants for the Alton (IL), Columbus (OH), and Farwell (TX) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA request comments on the applicants for designation to provide official services in the geographic areas currently assigned to Alton Grain Inspection Department (Alton), Columbus Grain Inspection, Inc. (Columbus), and Farwell Grain Inspection, Inc. (Farwell).

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by October 30, 1995.

ADDRESSES: Comments must be submitted in writing to Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36JHART]. ATTMAIL and FTS2000MAIL users may respond to !A36JHART. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–690–2755, attention: Janet M. Hart. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the August 1, 1995, **Federal Register** (60 FR 39147), GIPSA asked persons interested in providing official services in the geographic areas assigned to Alton, Columbus, and Farwell to submit an application for designation. There were four applicants: Alton, Columbus, and Farwell each applied for designation to provide official inspection services in the entire areas currently assigned to them; and California Department of Food and Agriculture applied for the Yuma County, Arizona, portion of the Farwell area.

GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address. Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicants written notification of the decision.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: September 14, 1995

Neil E. Porter

Director, Compliance Division

[FR Doc. 95–24051 Filed 9–28–95; 8:45 am]

BILLING CODE 3410–EN–F

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Gear Identification Requirements.

Agency Form Number: None.

OMB Approval Number: None.

Type of Request: Existing collection in use within an OMB control number.

Burden: 54,089 hours.

Number of Respondents: 39,164.

Avg Hours Per Response: Varies between 2 minutes and 15 minutes depending on the requirement (fishermen often have multiple requirements).

Needs and Uses: This is a generic collection of information that includes regulatory requirements for fishing gear identification under the authority of the Magnuson Fishery Conservation and Management Act to govern domestic and foreign fishing, the Atlantic Tunas Convention Act, and the South Pacific Tuna Act of 1988. The regulations further specify how the gear is to be marked, i.e., location and visibility. This information is used for enforcement purposes, and for purposes of gear identification concerning damage, loss and civil proceedings. The amount of time to mark the gear is estimated in this collection.

Affected Public: Individuals, businesses or other for–profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Vessel Identification Requirements.

Agency Form Number: None.

OMB Approval Number: None.

Type of Request: Existing collection in use without an OMB control number.

Burden: 17,159 hours.

Number of Respondents: 22,760.

Avg Hours Per Response: Ranges between 10 and 45 minutes depending on the requirement.

Needs and Uses: This is a generic collection of information that includes regulatory requirements for vessel identification under the authority of the Magnuson Fishery Conservation and Management Act to govern domestic and foreign fishing, the Atlantic Tunas Convention Act, and the South Pacific Tuna Act of 1988. The regulations specify that the vessel's official identification number (or international radio call) be displayed in various locations and is used primarily for enforcement purposes. Under the various regulations, vessels include fishing vessels, catcher/processors, and/or motherships. The burden hours associated with this clearance request is for the time to paint, or otherwise affix, the required identifying information on the vessel.

Affected Public: Individuals, businesses or other for–profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Vessel Monitoring and Communications Requirements.
Agency Form Number: None.
OMB Approval Number: None.
Type of Request: Existing collection in use without an OMB control number.
Burden: 9,833 hours.
Number of Respondents: 967 hours.
Avg Hours Per Response: Varies from a few seconds to 4 hours depending on the requirement.
Needs and Uses: This is a generic collection of information that includes regulatory requirements for vessel monitoring and communication under the authority of the Mangnuson Fishery Conservation and Management Act. Fishing vessels and/or at–sea processing vessels are required to have installed transponders/vessel tracking systems on Inmarsat Communication Units for onboard communications with the National Marine Fisheries Service. The primary purpose of such equipment is to communicate the vessel's location or, in the case of Inmarsat Communication Units, communicate harvest information collected by observers aboard the vessel. The installation time of the monitoring and/or communication equipment is measured as well as the estimated transmission times for communication.
Affected Public: Individuals, businesses or other for–profit organizations.
Frequency: On occasion.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposals can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: September 22, 1995

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–24215 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–CW–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: NIST.
Title: National Voluntary Laboratory Accreditation Program (NVLAP) Customer Satisfaction Survey.
Form Number: None.
Agency Approval Number: None.
Type of Request: New collection.
Burden: 200 hours.
Number of Respondents: 800.
Avg Hours Per Response: 15 minutes.
Needs and Uses: The National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology (NIST) plans to survey its constituent laboratories to determine the kind and quality of services they want and their level of satisfaction with existing services. The information collected will be used to identify areas in need of improvement and to provide a benchmark for future measurements of customer satisfaction.
Affected Public: Businesses or other for–profit, Federal Government, and State, Local or Tribal Government.
Frequency: One–time.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Virginia Huth, (202) 395–6929.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Virginia Huth, OMB Desk Officer, Room 10202 New Executive Office Building, Washington, DC 20503.

Dated: September 22, 1995.

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–24290 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–CW–F

Bureau of the Census

Notice of Proposal to Submit an Information Collection to the Office of Management and Budget (OMB)

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-submission consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing information collections before they are submitted to OMB for review. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Census Bureau, within the Department of Commerce, is soliciting comments concerning its plans to submit a revised question series for educational attainment, which is part of the monthly Current Population Survey (CPS), to OMB for review.

DATES: Written comments must be submitted on or before November 28, 1995. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Direct all written comments to Gerald Taché, Departmental Forms Clearance Officer, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on these questions should be directed to Gregory Weyland, Bureau of the Census, FOB 3, Room 3340, Washington, DC 20233–8400, (301) 457–3806.

Proposed Educational Attainment Question Series

SEA1 What is the highest level of school you have completed or the highest degree you have received?
31 Less than 1st grade
32 1st, 2nd, 3rd, or 4th grade
33 5th or 6th grade
34 7th or 8th grade
35 9th grade
36 10th grade
37 11th grade
38 12th grade NO DIPLOMA
39 HIGH SCHOOL GRADUATE—high school DIPLOMA, or the equivalent (for example: GED)
40 Some college but no degree
41 Associate degree in college—Occupational/vocational program
42 Associate degree in college—Academic program
43 Bachelor's degree (For example: BA, AB, BS)
44 Master's degree (For example: MA, MS, MEng, MEd, MSW, MBA)
45 Professional School degree (For example: MD, DDS, DVM, LLB, JD)
46 Doctorate degree (For example: PhD, EdD)

SEA1—CK. Check Item

SEA1 is 31–38 (Go to SEA2)
SEA1 is 39 (Go to SEA3A)
SEA1 is 40–42 (Go to SEA4)

SEA1 is 43 (Go to SEA5A)
SEA1 is 44 (Go to SEA6)
SEA1 is 45–46 (Exit)
SEA2 Did (name/you) ever get a High School diploma by completing High School OR through a GED or other equivalent?
<1> Yes, completed High School
<2> Yes, GED or other equivalent
<3> No
Exit
SEA3A (People can get a High School diploma in a variety of ways, such as graduating from a High School or by getting a GED or other equivalent.) How did (name/you) get (his/her/your) High School diploma?
<1> Graduation from High School
<2> GED or other equivalent
(Exit)
(Ask SEA3B)
SEA3B What was the highest grade of regular school (name/you) completed before receiving (his/her/your) GED?
<1> Less than 1st grade
<2> 1st, 2nd, 3rd, or 4th grade
<3> 5th or 6th grade
<4> 7th or 8th grade
<5> 9th grade
<6> 10th grade
<7> 11th grade
<8> 12th grade NO DIPLOMA
Exit
SEA4 (Including any time that may have been spent getting an Associate's Degree, how/How) many years of college CREDIT (has/have)(name/you) completed? (Has/Have) (he/she/you) COMPLETED
<1> Less than 1 year?
<2> The first, or FRESHMAN year?
<3> The second, or SOPHOMORE year?
<4> The third, or JUNIOR year?
<5> Other (Ask SEA4S)
Exit
SEA4S How many years is that?
===>_____
Exit
SEA5A Since completing (his/her/your) Bachelor's degree, (has/have) (name/you) ever taken any GRADUATE or PROFESSIONAL school courses for credit?
<1> Yes (Ask SEA5B)
<2> No (Exit)
SEA5B Did (name/you) complete SIX or MORE graduate or professional school courses?
<1> Yes
<2> No
Exit
SEA6 Was (name's/you) Master's Degree program a 1-year, 2-year, or 3-year program?
<1> 1-year program
<2> 2-year program
<3> 3-year program
<4> Other (Ask SEA6S)
Exit
SEA6S What is that?
===>_____
Exit

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of the Census has conducted the CPS monthly for over 50 years. Its primary purpose is to provide monthly statistics on the labor force status of the American population, including the official unemployment rate. It is authorized by Title 13, United States Code, Section 182; and Title 29, United States Code, Sections 1–9. The Bureau of the Census and the Bureau of Labor Statistics (BLS) sponsor this survey.

Several years ago (1992), the CPS changed its methodology for collecting educational attainment from a "years attended basis" to a "degree received basis." While this change was embraced by most analysts as being a more accurate measure of this characteristic, it did disrupt a number of time series statistics using the "years attended" measure. Given this background, BLS and Census Bureau staff researched and tested a number of revised questionnaires in an attempt to devise a series of questions that would collect both measures of educational attainment, while maintaining consistency with the current "degree received measure." Note that question SEA1 above is the current "degree received" question and will retain its function as the primary measure of educational attainment.

II. Current Actions

In July 1995, we collected data using the revised series of questions as a supplement in one-fourth of the CPS sample. The purpose of this test was to gauge how the new question series performed and, if necessary, to provide a set of bridge statistics on educational attainment that would allow a smooth transition to the new question series. Currently, staff at both the BLS and the Census Bureau are analyzing the results of this test. If the results are favorable, we plan to incorporate the new question series into the January 1996 CPS instrument. This submission to OMB is being made in anticipation of favorable test results and may be withdrawn if that does not occur.

III. Request for Comments

After reviewing the information collection instrument (see above), prospective respondents and other interested parties should comment on the actions discussed in Item II. The following general guidelines are provided to assist in the preparation of responses. Please include the name of this information collection, the CPS educational attainment revision, in your comments.

As a potential data user:

A. Did you use educational attainment data from the CPS prior to 1992?

B. If so, did the switch to "highest degree received" cause any problems with your time series or other analyses?

C. The suggested item series is intended to continue the current "highest degree received" concept while reinstituting the "last year completed" concept (used prior to 1992 in the CPS). Do you think this objective is served by these items?

D. Can you use data at the levels of detail indicated?

E. For what purpose do you or would you use these data? Please be specific.

F. As a user of these data, can you suggest modifications to the proposed items that if incorporated, would better serve your analytical needs? If so, please submit your suggested changes with a short statement describing the perceived benefits.

As a potential respondent:

A. We estimate that it will take the average respondent about 30 seconds to answer the appropriate questions. Is this a reasonable burden?

B. Are the questions sensitive in nature? If so, please be specific in describing why.

C. Are the questions understandable and framed in a sensible manner? If not, what items are confusing and how should we clarify them?

D. In your opinion, could a proxy respondent (i.e., one household member providing information for another household member) provide complete and accurate answers? If not, why?

E. Do you have any suggestions on ways of reducing the burden associated with responding to this information collection?

The Census Bureau also is interested in receiving comments from persons regarding their views on the need for this information collection.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 26, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–24291 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–07–M

Foreign-Trade Zones Board

[Order No. 769]

Revision of Grant of Authority; Subzone 9E, Chevron U.S.A. Products Company, (Oil Refinery), Ewa, Oahu, Hawaii

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Board (the Board) authorized subzone status at the oil refinery of Chevron U.S.A. Products Company, in Ewa, Oahu, Hawaii, in 1988 (Subzone 9E, Board Order 415, 53 FR 53040, 12/30/88);

Whereas, the Hawaii Department of Business, Economic Development and Tourism, on behalf of the State of Hawaii, grantee of FTZ 9, has requested pursuant to § 400.32(b)(1)(i), a revision (filed 7/14/95, A(32b1)–12–95; FTZ Doc. 46–95, assigned 8/30/95) of the grant of authority for FTZ Subzone 9E which would make its scope of authority identical to that recently granted for FTZ Subzone 199A at the refinery complex of Amoco Oil Company, Texas City, Texas (Board Order 731, 60 FR 13118, 3/10/95); and,

Whereas, the request has been reviewed and the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation of the Executive Secretary, and approves the request;

Now Therefore, the Board hereby orders that, subject to the Act and the Board's regulations, including § 400.28, Board Order 415 is revised to replace the two conditions currently listed in the Order with the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings # 2709.00.1000–# 2710.00.1050 and # 2710.00.2500 which are used in the production of:

—petrochemical feedstocks and refinery by-products (FTZ staff report, Appendix B);
—products for export; and,
—products eligible for entry under HTSUS # 9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 20th day of September 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–24292 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 770]

Revision of Grant of Authority; Subzone 84F; Phibro Refining Inc., (Oil Refinery), Houston, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Board (the Board) authorized subzone status at the oil refinery of Phibro Refining Inc., in Houston, Texas, in 1991 (Subzone 84F, Board Order 552, 56 FR 67058, 12/27/91);

Whereas, the Port of Houston Authority, grantee of FTZ 84F, has requested pursuant to § 400.32(b)(1)(i), a revision (filed 7/18/95, A(32b1)–13–95; FTZ Doc. 47–95, assigned 8/30/95) of the grant of authority for FTZ Subzone 84F which would make its scope of authority identical to that recently granted for FTZ Subzone 199A at the refinery complex of Amoco Oil Company, Texas City, Texas (Board Order 731, 60 FR 13118, 3/10/95); and,

Whereas, the request has been reviewed and the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation of the Executive Secretary, and approves the request;

Now therefore, the Board hereby orders that, subject to the Act and the Board's regulations, including § 400.28, Board Order 552 is revised to replace the two conditions currently listed in the Order with the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings # 2709.00.1000–# 2710.00.1050 and # 2710.00.2500 which are used in the production of:

—petrochemical feedstocks and refinery by-products (FTZ staff report, Appendix B);
—products for export; and,
—products eligible for entry under HTSUS # 9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 20th day of September 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–24293 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 768]

Revision of Grant of Authority; Subzone 122L—Site 5, Koch Refining Company, L.P., (Oil Refinery), Corpus Christi, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Board (the Board) authorized subzone status at the oil refinery of Koch Refining Company, L.P., in Corpus Christi, Texas, in 1985 (Subzone 122L—Site 5 (formerly Subzone 122B owned by Southwestern Refining), Board Order 310, 50 FR 38020, 9/19/85);

Whereas, the Port of Corpus Christi Authority, grantee of FTZ 122, has requested pursuant to § 400.32(b)(1)(i), a revision (filed 7/13/95, A(32b1)-11–95; FTZ Doc. 45–95, assigned 8/30/95) of the grant of authority for FTZ Subzone 122L—Site 5 which would make its scope of authority identical to that recently granted for FTZ Subzone 199A at the refinery complex of Amoco Oil Company, Texas City, Texas (Board Order 731, 60 FR 13118, 3/10/95); and,

Whereas, the request has been reviewed and the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation of the Executive Secretary, and approves the request;

Now therefore, the Board hereby orders that, subject to the Act and the Board's regulations, including § 400.28, Board Order 310 is revised to include the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for

the refinery (Subzone 122L—Site 5) shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to Subzone 122L—Site 5, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings # 2709.00.1000–# 2710.00.1050 and # 2710.00.2500 which are used in the production of:

—petrochemical feedstocks and refinery by-products (FTZ staff report, Appendix B);
—products for export; and,
—products eligible for entry under HTSUS # 9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option for Subzone 122L—Site 5 is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 20th day of September 1995.

Susan G. Esserman

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–24295 Filed 9–28–95; 8:45 am]

BILLING CODE 3510-DS-P

[Order No. 771]

Revision of Grant of Authority; Subzone 122J, Valero Refining Company, (Oil Refinery), Corpus Christi, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Board (the Board) authorized subzone status at the oil refinery of Valero Refining Company, in Corpus Christi, Texas, in 1988 (Subzone 122J, Board Order 414, 53 FR 53041, 12/30/88);

Whereas, the Port of Corpus Christi Authority, grantee of FTZ 122J, has requested pursuant to § 400.32(b)(1)(i), a revision (filed 7/18/95, A(32b1)-14–95; FTZ Doc. 48–95, assigned 8/30/95) of the grant of authority for FTZ Subzone 122J which would make its scope of authority identical to that recently granted for FTZ Subzone 199A at the refinery complex of Amoco Oil Company, Texas City, Texas (Board Order 731, 60 FR 13118, 3/10/95); and,

Whereas, the request has been reviewed and the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation of the Executive Secretary, and approves the request;

Now therefore, the Board hereby orders that, subject to the Act and the Board's regulations, including § 400.28, Board Order 414 is revised to replace the two conditions currently listed in the Order with the following conditions:

1. Foreign status (19 CFR §§ 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings # 2709.00.1000–# 2710.00.1050 and # 2710.00.2500 which are used in the production of:

—petrochemical feedstocks and refinery by-products (FTZ staff report, Appendix B);
—products for export; and,
—products eligible for entry under HTSUS # 9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 20th day of September 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–24294 Filed 9–28–95; 8:45 am]

BILLING CODE 3510-DS-P

International Trade Administration

[A–428–810]

High-Tenacity Rayon Filament Yarn from Germany; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 12, 1995, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on high-tenacity rayon filament yarn from Germany (60 FR 35896). The review covered one manufacturer/exporter, Akzo Nobel Faser A.G. and Akzo Nobel Fibers, Inc. (collectively Akzo), of the subject merchandise and the review period June 1, 1993, through May 31, 1994.

We gave interested parties an opportunity to comment on our preliminary results. We received no comments. The final results are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5831/4114.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 1992, the Department published in the **Federal Register** the antidumping duty order on high-tenacity rayon filament yarn from Germany (57 FR 29062). On June 7, 1994, the Department published a notice in the **Federal Register** notifying interested parties of the opportunity to request an administrative review of high-tenacity rayon filament yarn from Germany (59 FR 29441). On June 30, 1994, Akzo, a producer/exporter, requested, in accordance with 19 CFR 353.22(a), that we conduct an administrative review of exports to the United States by Akzo Nobel Faser A.G. and Akzo Nobel Fibers, Inc., for the period June 1, 1993, through May 31, 1994. We published a notice of initiation of the antidumping duty administrative review on July 15, 1994 (59 FR 36160). On July 12, 1995, the Department published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on high-tenacity rayon filament yarn from Germany (60 FR 35896). The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statutes and Regulations

Unless otherwise stated, all citations to the statutes and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of the Review

The product covered by this administrative review is high-tenacity rayon filament yarn from Germany. During the review period, such merchandise was classifiable under Harmonized Tariff Schedule (HTS) item number 5403.10.30.40. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tax. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of this proceeding.

Final Results of the Review

We invited interested parties to comment on the preliminary results. We received no comments. The final results are therefore unchanged from those presented in the preliminary results, and we determine that a margin of zero percent exists for Akzo for the period June 1, 1993, through May 31, 1994.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Akzo will be the rate established in the final results of this review, which in this case, is a zero cash deposit rate; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review by the Department, the cash deposit rate will be 24.58 percent, the all other rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: September 22, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–24300 Filed 9–23–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent To Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review, and Notice of Intent to Revoke in Part.

SUMMARY: In response to requests from three respondents, three U.S. producers, and one interested party, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from the Republic of Korea. The review covers four manufacturers/exporters of the subject merchandise to the United States during the periods June 1, 1992 through May 31, 1993 and June 1, 1993 through May 31, 1994. The reviews indicate the existence of dumping margins for certain firms during the relevant periods.

We are announcing our intent to revoke the order for Cheil Synthetics, Inc. (Cheil). We preliminarily determined that Cheil has not sold the subject merchandise at less than foreign market value (FMV) in these reviews and for at least three consecutive administrative review periods. Cheil has also submitted a certification that it will not sell at less than FMV in the future.

We have preliminarily determined that sales have been made below foreign market value (FMV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service (U.S. Customs) to assess antidumping duties equal to the difference between the United States price (USP) and the FMV.

We invite interested parties to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4475 or 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1991, the Department of Commerce published in the **Federal Register** (56 FR 25660) the antidumping duty order on PET film from the Republic of Korea. On June 7, 1993 and June 7, 1994, the Department published (58 FR 31941 and 59 FR 29411) the respective notices of "Opportunity to Request an Administrative Review" of this antidumping duty order for the periods June 1, 1992 through May 31, 1993 (second review) and June 1, 1993 through May 31, 1994 (third review). We received timely requests for review from Kolon Industries, Inc. (Kolon), SKC Limited (SKC), and STC Corporation (STC) for the second review. The petitioners, E.I. DuPont Nemours & Co., Inc., Hoechst Celanese Corporation, and ICI Americas, Inc., requested reviews of Cheil, Kolon, SKC, and STC for the second review. We received timely requests for review from Cheil, Kolon, SKC, and STC for the third review. The petitioners also requested reviews for Cheil, Kolon, SKC, and STC for the third review. Toray, a domestic interested party, also requested reviews of Cheil, Kolon, SKC, and STC for the third review. On July 21, 1993 and July 15, 1994, the Department published (58 FR 39007 and 59 FR 36160) the respective notices of initiation for the second and third reviews.

The Department is now conducting these reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

We have preliminarily determined to revoke the antidumping duty order for Cheil. Cheil submitted a request in accordance with 19 CFR 353.25(b) to revoke the order with respect to its sales of PET film in the United States; that request constituted a request for review. Cheil's request was accompanied by a certification that it had not sold PET film to the United States at less than FMV for at least a three-year period, including the subject review periods, and would not do so in the future. Since we preliminarily determine that Cheil has not sold the subject merchandise at less than FMV for at least the required three-year period, we intend to revoke the order with respect to Cheil.

Scope of the Review

Imports covered by the review are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this review are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. The Department has determined that roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex is not within the scope of the order. PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00. The HTS subheading is provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage.

Verification

As provided in section 776(b) of the Act, we verified information provided by Cheil and SKC for the second review by using standard verification procedures including inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

United States Price (USP)

In calculating USP, the Department treated respondents' sales as purchase price (PP) sales, as defined in section 772(b) of the Act, when the merchandise was sold to unrelated U.S. purchasers prior to importation. The Department treated respondents' sales as exporter's sale price (ESP) sales, as defined in section 772(c) of the Act, when the merchandise was sold to unrelated U.S. purchasers after importation.

PP was based on ex-factory, f.o.b. Korean port, f.o.b. customer's specific delivery point, c.i.f. U.S. port, or packed, delivered prices to unrelated purchasers in the United States. We made adjustments, where applicable, for Korean and U.S. brokerage and handling, terminal handling charges, Korean and U.S. inland freight, ocean freight, marine insurance, containerization expenses and taxes, sample movement charges, return movement charges, discounts, wharfage expense, consolidated freight charges, and U.S. duties in accordance with section 772(d)(2) of the Act.

ESP was based on ex-warehouse, f.o.b. customer's specific delivery point, or packed, delivered prices to unrelated purchasers in the United States. We made adjustments, where applicable, for Korean and U.S. brokerage and handling, Korean and U.S. inland freight, ocean freight, marine insurance, consolidated freight charges, miscellaneous handling charges, containerization expenses and taxes, wharfage expenses, warranty expenses, rebates, discounts, U.S. duties, U.S. commissions, U.S. credit expenses, and indirect selling expenses (which include inventory carrying costs and pre-sale warehousing expenses), in accordance with section 772(d)(2) of the Act.

We increased both PP and ESP by the amount of import duties which were rebated or which were not collected by reason of the exportation of PET film, pursuant to section 772(d)(1)(B) of the Act.

We adjusted USP for taxes in accordance with our practice as outlined in Silicomanganese from Venezuela, Preliminary Determination of Sales at Less Than Fair Value, 59 FR 31204, June 17, 1994.

With respect to subject merchandise to which value was added in the United States by SKC and STC prior to sale to unrelated U.S. customers, we deducted any increased value in accordance with section 772(e)(3) of the Act. The value added consists of the costs associated with the production and sale of the further-processed merchandise, other than the costs associated with the imported PET film, an a proportional amount of profit or loss related to the value added. Profit or loss was calculated by deducting from the sales price of the further-processed merchandise all production and selling costs incurred by SKC and STC in the value-added process. The profit or loss was then allocated proportionally to all components of cost.

No other adjustments were claimed or allowed.

Foreign Market Value

In order to determine whether there were sufficient sales of PET film in the home market to serve as a viable basis for calculating foreign market value (FMV), we compared the volume of home market sales of PET film to the volume of third-country sales of PET film, in accordance with section 773(a)(1) of the Act and 19 CFR 353.48 (a). All four respondents had viable home markets with respect to sales of PET film made during the PORs.

Due to the existence of sales below the cost of production (COP) in the original investigation for Cheil and SKC, which was the last completed proceeding at the time we initiated the COP investigations, the Department had reasonable grounds to believe or suspect that sales below the COP may have occurred during these reviews. See Oil Country Tubular Goods from Canada Preliminary Results of Antidumping Duty Administrative Review, 59 FR 18798, 18799 (April 20, 1994). Accordingly, the Department initiated a COP investigation for Cheil and SKC for the second and third administrative reviews in accordance with section 773 (b) of the Act.

Furthermore, based on an allegation by petitioners, the Department also determined that reasonable grounds existed to believe or suspect that sales below cost had been made by Kolon and STC in the third administrative review. See Carbon Steel Butt-Weld Pipe Fittings from Taiwan; Preliminary Results of Administrative Review, 59 FR 66001 (December 22, 1994). Thus, the Department initiated a COP investigation for Kolon and STC for the third administrative review in accordance with section 773(b) of the Act. However, because the petitioners filed an untimely allegation of sales below cost for Kolon and STC for the second review, we did not initiate a sales below cost investigation for these companies for that period.

We performed a model-specific COP test, in which we examined whether each home market sale was priced below the merchandise's COP. We calculated the COP of the merchandise

using Cheil's, SKC's, Kolon's, and STC's cost of materials and fabrication, and general expenses, in accordance with 19 CFR 353.51(c). Respondent's materials and fabrication expenses consisted of materials, labor, and overhead costs incurred for film manufacturing. General expenses consisted of general and administrative expenses as well as net interest expenses. For each model, we compared this sum to the reported home market unit price, net of price adjustments and movement expenses.

We relied upon data submitted by the respondents (See August 17, 1995 memo from the Director of the Office of Accounting to the AS/IA regarding cost methodology) except in the following instances where costs were not appropriately quantified or valued.

For SKC, we adjusted the cost of manufacturing for A-grade and B-grade film types to correct for yield differences between grades. We corrected general and administrative expenses to exclude dividend income and include the amortization of new stock issuance costs. We recalculated interest expense using amounts reported in SKC's financial statements, rather than the amount reported in the combined financial statements of the Sunkyong Group. Finally, we increased SKC's material costs for dimethyl terephthalate and terephthallic acid purchased from a related part to reflect the related party's cost of producing those materials.

For Cheil, we recalculated general and administrative expenses based on the total activity of the company reported in Cheil's 1992 or 1993 income statements, rather than on a departmental basis. We disallowed certain income as an offset to interest expense, since Cheil could not substantiate that the income was short-term in nature. For the second review, we increased Cheil's material cost for ethylene glycol purchased from a related party to reflect the related party's production costs.

In accordance with section 773(b) of the Act, we also examined whether the home market sales of each model were made at prices below its COP in substantial quantities over an extended period of time, and whether such sales were made at prices which would permit recovery of all costs within a reasonable period of time in the normal course of trade.

For each model where less than ten percent, by quantity, of the home market sales during the POR were made at prices below the COP, we included all sales of that model in the computation of FMV. For each model where ten percent or more, but less than ninety percent, of the home market sales during the POR were priced below the merchandise's COP, we excluded from the calculation of FMV those home market sales which were priced below the merchandise's COP, provided that the below-cost sales were made over an extended period of time. For each model where ninety percent or more of the home market sales during the POR were priced below the COP, we disregarded all sales of that model from our analysis. See Preliminary Results and Partial Termination of Antidumping Duty Administrative Reviews; Tapered Roller Bearings, Four inches or Less in Outside Diameter, and Certain Components Thereof, from Japan, 58 FR 69336, 69338 (December 30, 1993).

In order to determine whether below-cost sales had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for each product to the number of months during the POR in which each model was sold. If a product was sold in fewer than three months during the POR, we did not exclude the below-cost sales unless there were below-cost sales in each month of sale. If a product was sold in three or more months, we did not exclude the below-cost sales unless there were below-cost sales in at least three months during the POR.

See Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt Weld Pipe Fittings from Thailand, 60 FR 10552, 10554 (February 27, 1995).

In addition, the Department also determined that no evidence was presented to indicate that below-cost COP prices would permit recovery of all costs within a reasonable period of time in the normal course of trade. Therefore, in accordance with section 773(b) we disregarded these below-cost sales from our FMV calculations.

In accordance with section 773(b) of the Act, where home market sales (as identified in the model match) were excluded from our analysis because they were priced below the COP, or where the remaining sales were determined to be inadequate as a basis for determining foreign market value, we used the constructed value of the merchandise sold in the United States as the basis for FMV. We calculated the constructed value, in accordance with section 773(e) of the Tariff Act, as the sum of the cost of materials and fabrication expenses of the product sold in the United States, home market general expenses, and home market profit. In accordance with section 773(b)(i) of the Act, for home market general expenses, we used the larger of the actual general expenses reported by the respondents or ten percent of the cost of materials and fabrication expenses, the statutory minimum for general expenses. For home market profit, we used the larger of the actual profit reported by the respondents or the statutory minimum of eight percent of the sum of the cost of materials, fabrication and general expenses in accordance with section 773(b)(i) of the Act.

For those models which we determined were not sold below the COP and were of a sufficient quantity to calculate FMV, we calculated FMV based on delivered prices to unrelated customers in the home market. In calculating FMV, we made adjustments, where appropriate, for rebates, Korean inland freight and insurance, Korean brokerage and loading charges, and home market credit expenses in accordance with section 773(a)(1) of the Act. We deducted home market packing costs from the home market price and added U.S. packing costs to the FMV. We also made, where applicable, difference-in-merchandise adjustments.

For comparison to PP sales, pursuant to 19 CFR 353.56, we made circumstance-of-sale adjustments to FMV, where appropriate, for post-sale warehousing expenses, Korean and U.S. bank charges, U.S. credit expenses, and U.S. warranty expenses. We made further adjustments, where appropriate, for U.S. commissions in accordance with 19 CFR 353.56(a)(2). Where commissions were paid on U.S. sales and not paid on home market sales, we allowed an offset to FMV amounting to the lesser of the weighted-average home market indirect selling expenses or the U.S. commissions in accordance with 19 CFR 353.56(b) of the Department's regulations.

For comparison to ESP sales, we allowed an ESP offset to FMV, amounting to the lesser of the weighted-average total of home market indirect selling expenses or the total U.S. indirect selling expenses, in accordance with 19 CFR 353.56(b)(2).

No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margins exist for the periods indicated:

Manufacturer/exporter	Period	Percent margin
Cheil	06/01/92–05/31/93	0.01
Cheil	06/01/93–05/31/94	0.01
Kolon	06/01/92–05/31/93	0.12
Kolon	06/01/93–05/31/94	0.12
SKC	06/01/92–05/31/93	12.34
SKC	06/01/93–05/31/94	16.20
STC	06/01/92–05/31/93	0.08
STC	06/01/93–05/31/94	0.94

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and FMV may vary from the percentages stated above. Upon completion of the review the Department will issue appraisement instructions on each exporter directly to the U.S. Customs Service.

Interested parties may request disclosure within five days of the date of publication of this notice, and may request a hearing within ten days of the date of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first work day thereafter. Case briefs or other written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

Furthermore, the following deposit requirements will be effective for all shipments of polyethylene terephthalate film, sheet, and strip, from Korea, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act.

(1) The cash deposit rate for the reviewed companies will be those rates established in the final results of the review of the third period. If the rates for Cheil and Kolon remain *de minimis*, (*i.e.*, less than 0.5 percent) there will be no cash deposits required on shipments from these firms of subject merchandise;

(2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a prior review, or in the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rates will be 4.88 percent, the "all-others" rate established in the LTFV investigation (56 FR 16305).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period.

Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: September 21, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–24302 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–DS–M

Intent to Revoke Antidumping Duty Orders and Findings and to Terminate Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Intent to Revoke Antidumping Duty Orders and Findings and to Terminate Suspended Investigations.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than the last day of October 1995.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC. 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping Proceeding

Japan
Steel Wire Rope
A–588–045
38 FR 28571
October 15, 1973
Contact: Davina Hashmi at (202) 482–3813
Yugoslavia
Industrial Nitrocellulose
A–479–801
55 FR 41870
October 16, 1990
Contact: Rebecca Trainor at (202) 482–0666

If no interested party requests an administrative review in accordance with the Department's notice of

opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

Opportunity to Object

Domestic interested parties, as defined in § 353.2(k)(3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by the last day of October 1995. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k) (3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, D.C. 20230. You must also include the pertinent certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203. This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: September 25, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–24304 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–813]

Light Scattering Instruments and Parts Thereof from Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of Antidumping Duty Administrative Review.

SUMMARY: On August 16, 1995, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on light-scattering instruments and parts thereof from Japan (60 FR 42527). The review covered one manufacturer/exporter, Otsuka Electronics Co., Ltd. (Otsuka), of the subject merchandise and the review period November 1, 1993, through October 31, 1994.

We gave interested parties an opportunity to comment on our preliminary results. We received no comments. The final results are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Leon McNeill or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 1990, the Department published in the **Federal Register** the antidumping duty order on light-scattering instruments (LSIs) and parts thereof from Japan (55 FR 48144). On November 10, 1994, the Department published a notice in the **Federal Register** notifying interested parties of the opportunity to request an administrative review of light-scattering instruments and parts thereof from Japan (59 FR 56034). On November 2, 1994, petitioner, Wyatt Technology Corporation (Wyatt) requested, in accordance with 19 CFR 353.22(a), that we conduct an administrative review of exports to the United States by Otsuka, for the period November 1, 1993, through October 31, 1994. We published a notice of initiation of the antidumping duty administrative review on December 15, 1994 (59 FR 64650). On August 16, 1995, the Department published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on light-scattering instruments and parts thereof from Japan (60 FR 42527). The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statutes and Regulations

Unless otherwise stated, all citations to the statutes and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of the Review

The products covered by this administrative review are light-scattering instruments and parts thereof from Japan. The Department defines such merchandise as LSIs and the parts thereof, specified below, that have classical measurement capabilities, whether or not also capable of dynamic measurement. Classical measurement (also known as static measurement) capability usually means the ability to measure absolutely (i.e., without reference to molecular standards) the weight and size of macromolecules and submicron particles in solution, as well as certain molecular interaction parameters, such as the so-called second viral coefficient. (An instrument that uses single-angle instead of multi-angle measurement can only measure molecular weight and the second viral coefficient.) Dynamic measurement (also known as quasi-elastic measurement) capability refers to the ability to measure the diffusion coefficient of molecules or particles in suspension and deduce therefrom features of their size and size distribution. LSIs subject to this review employ laser light and may use either a single-angle or multi-angle technique.

The following parts are included in the scope of this administrative review when they are manufactured according to specifications and operational requirements for use only in an LSI as defined in the preceding paragraph: scanning photomultiplier assemblies, immersion baths (to provide temperature stability and/or refractive index matching), sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches. LSIs subject to this review may be sold inclusive or exclusive of accessories such as personal computers, cathode ray tube displays, software, or printer. LSIs are currently classifiable under Harmonized Tariff Schedule (HTS) subheading 9027.30.40. LSI parts are currently classifiable under HTS subheading 9027.90.40. HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written product description remains dispositive. Different items with the same name as subject parts may enter under subheading 9027.90.40. To avoid the unintended suspension of liquidation of non-subject parts, those items entered under subheading 9027.90.40 and generally known as scanning photomultiplier assemblies, immersion baths, sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches must be accompanied by an importer's

declaration to the Customs Service stating that they are not manufactured for use in a subject LSI.

Final Results of the Review

We invited interested parties to comment on the preliminary results. We received no comments. The final results are therefore unchanged from those presented in the preliminary results, and we determine, based on the best information available, that a margin of 129.71 percent exists for Otsuka for the period November 1, 1993, through October 31, 1994.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Otsuka will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review by the Department, the cash deposit rate will be 129.71 percent, the all other rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: September 22, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–24301 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–201–504]

Porcelain-on-Steel Cooking Ware; Termination In-Part of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of termination in-part of antidumping duty administrative review.

SUMMARY: On January 13, 1995, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on porcelain-on-steel cooking ware from Mexico. The Department is now terminating this review in-part with respect to Esmaltaciones San Ignacio S.A. de C.V. (San Ignacio).

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Thomas Futtner, Office of Antidumping Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone (202) 482–6312/3814.

SUPPLEMENTARY INFORMATION:

Background

On January 13, 1995, the Department published in the **Federal Register** a notice of initiation of administrative review of the antidumping duty order on porcelain-on-steel cooking ware from Mexico (60 FR 3192). This notice stated that the Department would review merchandise sold in the United States by San Ignacio during the period December 1, 1993 through November 30, 1994.

San Ignacio subsequently withdrew its request for review on July 26, 1995, choosing a "new shipper" review instead. Section 19 CFR 353.22(a)(5) of the Department's regulations stipulates that the Secretary may permit a party that requests a review to withdraw the request not later than 90 days after the date of publication of the notice of initiation of the requested review. This regulation also provides that the Secretary may extend the time limit for withdrawal of a request if it is reasonable to do so. Because we have initiated a "new shipper" review on San Ignacio (July 20, 1995, 60 FR 37426), we are waiving the 90-day requirement in section 19 CFR 353.22(a)(5) and terminating this review, in part, with respect to San Ignacio.

This notice is published pursuant to 19 CFR 353.22(a)(5).

Dated: September 19, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–24303 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–DS–P

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Publication of quarterly update to annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty.

SUMMARY: The Department of Commerce (the Department), in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (as amended)(the Act) requires the Department to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h)(4) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the

Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: September 22, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross[1] subsidy	Net[2] subsidy
Austria	European Union (EU) Restitution Payments	36.7¢/lb.	36.7/lb.
Belgium	EU Restitution Payments	42.7¢/lb.	42.7¢/lb.
Canada	Export Assistance on Certain Types of Cheese	25.0¢/lb.	25.0¢/lb.
Denmark	EU Restitution Payments	38.9¢/lb.	38.9¢/lb.
Finland	EU Restitution Payments	37.7¢/lb	37.7¢/lb.
France	EU Restitution Payments	34.9¢/lb	34.9¢/lb.
Germany	EU Restitution Payments	42.5¢/lb	42.5¢/lb.
Greece	EU Restitution Payments	0.0¢/lb	0.0¢/lb.
Ireland	EU Restitution Payments	34.3¢/lb	34.3¢/lb.
Italy	EU Restitution Payments	70.3¢/lb	70.3¢/lb.
Luxembourg	EU Restitution Payments	42.7¢/lb	42.7¢/lb.
Netherlands	EU Restitution Payments	36.2¢/lb	36.2¢/lb.
Norway	Indirect (Milk) Subsidy	19.8¢/lb	19.8¢/lb.
	Consumer Subsidy	44.0¢/lb	44.0¢/lb.
		63.8¢/lb	63.8¢/lb.
Portugal	EU Restitution Payments	33.9¢/lb	33.9¢/lb.
Spain	EU Restitution Payments	39.4¢/lb	39.4¢/lb.
Switzerland	Deficiency Payments	187.9¢/lb	187.9¢/lb.
U.K.	EU Restitution Payments	35.1¢/lb	35.1¢/lb.

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 95–24305 Filed 9–28–95; 8:45 am]
BILLING CODE 3510–DS–P

Determination Not to Revoke Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of determination Not to Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its determination not to revoke the countervailing duty order listed below.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202)482–2786.

SUPPLEMENTARY INFORMATION:

Background

On June 29, 1995, the Department published in the **Federal Register** (60 FR 33792) its intent to revoke the countervailing duty order listed below. Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party (as defined in sections 355.2 (i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to revocation and no interested party requests an administrative review by the last day of the 5th anniversary month.

Within the specified time frame, we received either an objection from a domestic interested party to our intent to revoke, or a request for review, for this countervailing duty order. Therefore, because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke the order. This determination is in accordance with 19 CFR 355.25(d)(4).

Countervailing duty orders	
EC: Sugar (C–408–046)	07/31/78 43 FR 33237

Dated: September 21, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–24306 Filed 9–28–95; 8:45 am]
BILLING CODE 3510–DS–P

[C–796–601]

Determination to Revoke Countervailing Duty Order; Wire Rod from Zimbabwe

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of determination to revoke countervailing duty order

SUMMARY: The Department of Commerce (the Department) is revoking the countervailing duty order on wire rod from Zimbabwe because it is no longer of interest to interested parties.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue NW., Washington, DC 20230; telephone: (202)482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 1995, the Department published in the **Federal Register** (60 FR 39151) its intent to revoke the countervailing duty order on wire rod from Zimbabwe (51 FR 29292; August 15, 1986). Additionally, as required by 19 CFR 355.25(d)(4)(ii)(1994), the Department served, by certified mail, written notice of its intent to revoke this countervailing duty order on each party listed on its most current service list.

Prior to publication of the Department's notice of intent to revoke the order, this countervailing duty order was determined to be subject to section 753 of the Tariff Act of 1930 (as amended by the Uruguay Round Agreements Act of 1994)(the Act). Countervailing Duty Order; Opportunity to Request a Section 753 Injury Investigation, 60 FR 27,963 (May 26, 1995). In conjunction with that determination, domestic interested parties were notified of their right to request an injury investigation under section 753(a) of the Act from the U.S. International Trade Commission (the Commission). Those parties were further informed that, in accordance with sections 753(b)(3) and (4) of the Act, the order would be revoked effective March 3, 1995 unless a request for an injury investigation was submitted to the Commission within six months of the date on which Zimbabwe became a signatory to the World Trade Organization (March 3, 1995), and the Commission rendered an affirmative injury determination pursuant to section 753(a)(1) of the Act.

On September 18, 1995, the Commission notified the Department that it did not receive a timely request under section 753(a) and, therefore, a negative injury determination had been made with respect to this order pursuant to section 753(b)(4) of the Act. However, since the revocation is effective January 1, 1995 under 19 CFR 355.25(d)(4)(iii), no further action is required by the Department under section 753 of the Act.

Scope of the Order

Imports covered by this order are shipments from Zimbabwe of carbon steel wire rod including coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross-section, not under 0.20 inch in diameter, nor over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and valued over or under four cents per pound. Such merchandise is currently classified under item numbers 7213.20.00, 7213.31.30, 7213.41.30, 7213.41.60, 7213.49.00, and 7123.50.00 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Determination to Revoke

The Department may revoke a countervailing duty order if it concludes that the order is no longer of interest to interested parties. We conclude that there is no interest in a countervailing duty order when no interested party (as defined in sections 355.2 (i)(3), (i)(4), (i)(5), and (i)(6) of the Department's regulations) has requested an administrative review for at least five consecutive review periods and when no domestic interested party objects to the revocation (19 CFR 355.25(d)(4)(iii)).

We received no requests for administrative review for the previous five consecutive review periods and no objections to our notice of intent to revoke the countervailing duty order. Therefore, we have concluded that the countervailing duty order covering wire rod from Zimbabwe is no longer of interest to interested parties, and we are revoking this countervailing duty order in accordance with 19 CFR 355.25(d)(4)(iii).

Further, as required by 19 CFR 355.25(d)(5), the Department is terminating the suspension of liquidation on the subject merchandise as of the effective date of this notice, and will instruct the Customs Service to liquidate, without regard to countervailing duties, all unliquidated entries of this merchandise exported from Zimbabwe on or after January 1, 1995.

Because of our determination to revoke this order in accordance with 19 CFR 355.25(d)(4)(iii), it is unnecessary to revoke the order pursuant to section 753(b)(3)(B) of the Act.

Dated September 21, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–24307 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–DS–P

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–078. *Applicant:* University of California, Davis, Exercise Science Department, 264 Hickey Gym, Davis, CA 95616. *Instrument:* Nitrogen Analyzer, Model N2–TEST. *Manufacturer:* Erich Jaeger, Germany. *Intended Use:* The instrument will be used to measure nitrogen concentration in rebreathed air containing 100% oxygen in order to determine residual lung volume to provide a more accurate assessment of the percentage of body fat in humans by subtracting from weight loss in underwater weighing. *Application Accepted by Commissioner of Customs:* August 29, 1995.

Docket Number: 95–081. *Applicant:* University of Rhode Island, Graduate School of Oceanography, South Ferry Road, Narragansett, RI 02882–1997. *Instrument:* ICP Mass Spectrometer, Model Element. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used for studies of oceanographic, geological and atmospheric samples that will be analyzed for a wide range of elemental and isotopic abundances. In addition, the instrument will be used in a graduate level course in Marine Isotope Geochemistry to expose students to the fundamentals of isotopic tracers used in chemical oceanography. *Application Accepted by Commissioner of Customs:* August 30, 1995.

Docket Number: 95–082. *Applicant:* University of Maryland at College Park, Institute for Plasma Research, 1202K Energy Research Facility, College Park, MD 20742. *Instrument:* Pulsed Surface Plasma Source and Power Supply. *Manufacturer:* Budker Institute of Nuclear Physics, CIS. *Intended Use:* The instrument will be used to produce very high quality ion beams required to advance the present state-of-the art of ion project lithography. *Application Accepted by Commissioner of Customs:* August 30, 1995.

Docket Number: 95–083. *Applicant:* Continuous Electron Beam Accelerator Facility, 12000 Jefferson Avenue, Newport News, VA 23606. *Instrument:*

Gas Cherenkov Counters for Hall A Magnetic Spectrometers. *Manufacturer:* CEA/DSM, France. *Intended Use:* The instrument will be used for studies of nucleons, nuclei, pions and Kaons and nucleon excited states. In addition, the instrument will be used for educational purposes in a graduate course in experimental nuclear physics. *Application Accepted by Commissioner of Customs:* September 7, 1995.

Docket Number: 95–084. *Applicant:* Federal Highway Administration, Special Projects & Engineering Division, HNR–20, 6300 Georgetown Pike, McLean, VA 22101. *Instrument:* Automatic Non-Contact Aggregate Graduation Device, Model VDG 40. *Manufacturer:* Yernaux Pesage, France. *Intended Use:* The instrument will be used to evaluate mineral aggregate materials used in pavement construction. *Application Accepted by Commissioner of Customs:* September 11, 1995.

Docket Number: 95–085. *Applicant:* University of Wisconsin - Eau Claire, Eau Claire, WI 54702. *Instrument:* Absorbance and Fluorescence Stopped-Flow Spectrophotometer, Model SX–17MV. *Manufacturer:* Applied Photophysics, Ltd., United Kingdom. *Intended Use:* The instrument will be used to study the rates of electron transfer reactions of organic, inorganic, biological, and organometallic molecules to determine how differences in the structural, physical, and chemical properties of the reacting materials control their rates of reaction. *Application Accepted by Commissioner of Customs:* September 11, 1995.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 95–24308 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–DS–F

National Oceanic and Atmospheric Administration

[I.D. 092295B]

Marine Mammals and Endangered Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for a scientific research permit (P278F).

SUMMARY: Notice is hereby given that Dr. Brent Stewart, Senior Research Biologist, Hubbs-Sea World Research Institute, 2595 Ingraham St., San Diego, CA 92109 has applied in due form for a permit to take two species of marine mammals for purposes of scientific research.

DATES: Written comments must be received on or before October 30, 1995.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (301/980–4016).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

FOR FURTHER INFORMATION CONTACT: Gary Barone, Permits Division, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The permit application requests authorization to capture and release 20 common dolphins (*Delphinus delphis*) and 20 Pacific white-sided dolphins (*Lagenorhynchus obliquidens*) over a 5-year period. The animals will be fitted with satellite linked transmitters, biologically sampled and scanned with an ultrasound device. The work will be conducted in the waters off of Southern California.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: September 22, 1995.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–24189 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 091495B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of public display permit no. 978.

SUMMARY: Notice is hereby given that the Oregon Coast Aquarium (P145A) has been issued a permit for public display purposes.

ADDRESSES: The permit is available for review by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, NOAA, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115 (206/526–6150).

SUPPLEMENTARY INFORMATION: On Monday, August 14, 1995, notice was published in the **Federal Register** (60 FR 41881) that an application had been filed by the Oregon Coast Aquarium, Newport, OR. A public display permit was requested to import one adult male killer whale (*Orcinus orca*), from the Reino Aventura theme park, Mexico, into the United States for public display purposes.

The requested permit has been issued subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the conditions set forth therein.

Dated: September 22, 1995.

Ann D. Terbush,

Chief, Permits & Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–24309 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Recision of a Request to Consult and Cancellation of a Limit on Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Honduras

September 27, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Announcing the recision of a request to consult and issuing a directive to the Commissioner of Customs cancelling a limit.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade

Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The United States Government has decided to rescind the request made on March 27, 1995 to consult on imports of cotton and man-made fiber nightwear and pajamas in Categories 351/651 from Honduras.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to cancel the limit established for Categories 351/651 for the period March 27, 1995 through March 26, 1996.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 32655, published on June 23, 1995.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 27, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive cancels and supersedes the directive issued to you on June 16, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of cotton and man-made fiber textile products in Categories 351/651, produced or manufactured in Honduras and exported during the period which began on March 27, 1995 and extends through March 26, 1996.

Effective on September 29, 1995, you are directed to cancel the limit established for Categories 351/651 for the period March 27, 1995 through March 26, 1996.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.95–24417 Filed 9–28–95; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds to the Procurement List a finger bleeding lancet to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 30, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 14, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (60 F.R. 36266) of proposed addition to the Procurement List. The Committee received comments from the current contractor in response to its 1995 and 1994 proposals to add the lancets to the Procurement List. The contractor indicated that it is a considerably smaller entity than the Committee deemed it to be, and addition of the lancet to the Procurement List would have a severe impact on that entity, including loss of jobs and of the opportunity to recoup the entity's investment in equipment, possibly resulting in the entity going out of business.

The contractor also questioned whether people with severe disabilities are capable of producing the lancets, and whether the nonprofit agency which will produce them is in compliance with Food and Drug Administration (FDA) requirements for the production of medical instruments. The contractor was particularly concerned about the nonprofit agency's ability to avoid certain critical defects identified by the FDA in the production of lancets. The contractor also questioned the nonprofit agency's compliance with the statutory direct labor ratio requirement as it applies to lancet production, and indicated that the Committee's pricing mechanism is not in accordance with law.

As the result of a 1986 merger, the contractor's Medical Supply Division, which provides the lancets to the Government and other customers, is part of the same corporate entity as the administrative holding company for the contractor's various business ventures. This corporate entity reports its sales and income for tax purposes separately from its subsidiary corporations.

In situations like this, it has long been the Committee's policy to look at impact on the total business of the contractor affected by a decision to add a commodity or service to the Procurement List. This policy was specifically incorporated in the Committee's regulations as part of a regulatory revision which became effective December 16, 1994 (59 F.R. 59338, Nov. 16, 1994). In this case, the Committee's policy is especially appropriate. A review of the various documents submitted by the contractor, including its Form 10–K report for 1993 filed with the Securities and Exchange Commission, revealed a large interlocking financial enterprise controlled by the contractor, with substantial identity of officers, board-members, and ownership for the various corporations in the enterprise. The lancets are even made for the contractor by one of its subsidiaries, in a building near the contractor's headquarters which the contractor bought from the same subsidiary and leases back to the subsidiary.

The contractor's sales of the lancets to the Government are only a very small percentage of the sales of the total enterprise. The Committee does not consider loss of such a small percentage to constitute severe adverse impact on the contractor. The contractor's ability to transfer assets and employees between various parts of the enterprise should allow it to absorb any employees who may be displaced by the Committee's action and any manufacturing equipment, which it can continue to use in producing lancets for the commercial market. Because no contractor is guaranteed to continue receiving Government contracts for an item under the competitive bidding system, the contractor assumed a risk of losing the use of this equipment when it entered the Government market.

The Committee's conclusion that people with severe disabilities employed by the designated nonprofit agency will be capable of producing the lancets to fill Government orders is based on findings by the Committee's industrial engineer and an assessment by the engineering staff of the authorized central nonprofit agency for this action. The Committee's engineer reviewed production plans with the nonprofit agency and a central nonprofit agency engineer to address each of the contractor's capability contentions in

the course of making a capability determination.

The nonprofit agency has met all FDA requirements for producing lancets. Contrary to what the contractor implied, there is no FDA list of critical defects for lancets. FDA guidelines merely reflect general good manufacturing practices for medical devices, which the nonprofit agency will follow.

The specific defects the contractor mentioned, including reversed or overly long needles in the lancets, appear to be a factor in the operation of the contractor's automated manufacturing process. The nonprofit agency plans to load the needles by hand, which will avoid these defects. The more manually intensive manfacturing process to be used will also be easier and safer for people with severe disabilities. The process is consistent with injection molding operations which have been successfully used by other nonprofit agencies to produce items under the Committee's program.

The contractor questioned the nonprofit agency's ability to produce acceptable lancets on short notice, based on the contractor's "learning curve" to produce the lancets. The nonprofit agency does not intend to start at a high volume of production, but to have a pilot production period to perfect its production methods. In addition, initial orders will come from individual Government medical centers, which will allow the nonprofit agency to ensure that it will not receive more orders than it is capable of filling during the startup period.

Contrary to the contractor's contention, the Committee's statute requires qualified nonprofit agencies to have an overall 75 percent direct labor ratio for the work they do on all commodities and services they produce. The ratio requirement does not apply to all work which must be done to produce each Government item. The nonprofit agency will be using well above this percentage in the work they will do on the lancets. Inspection is considered indirect labor which is not counted in determining compliance with the requirement.

The contractor did not challenge the initial fair market price for the lancets, which was based on bids submitted on the last competitive procurement, in accordance with the Committee procedures.

The contractor's contention that the Committee's fair market pricing procedure is inconsistent with the Committee's statute challenges the "price change exception" procedure, which the contractor claims insulates the Committee's prices from changes in the market. However, as its name implies, this procedure is used only on an exceptional basis. The procedure allows a price change to be based on actual cost experience rather than changes in a producer price index. Where the exception is used, the Committee believes that commercial users would experience similar cost changes, so the price change exception procedure would have a relation to the market.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity.

3. The action will result in authorizing small entities to furnish the commodity to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List.

Accordingly, the following commodity is hereby added to the Procurement List:

Lancet, Finger Bleeding

Special Item B–11

(Requirements for the Department of Veterans Affairs under the Multiple Award Schedule FSC Group 65, Part II, Section B)

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–24328 Filed 9–28–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 30, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On June 17, 1994, March 17, July 28, August 4, 11 and 18, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (59 F.R. 31217, 60 FR 14427, 38794, 39947, 41060 and 43126) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Folder, File
7530–00–990–8884
(Requirements for the Palmetto, Georgia depot only)

Services

Administrative Services, Social Security Administration, 1221 Nevin Avenue, Richmond, California
Administrative Services, Department of the Treasury, U.S. Mint Headquarters, 633 3rd Street, NW., Washington, DC
Commissary Shelf Stocking and Custodial, Columbus Air Force Base, Mississippi
Grounds Maintenance, Lake Sonoma/Warm Springs Dam, Geyserville, California
Janitorial/Custodial, Ballistic Missile Center, 106 Wynn Drive, U.S. Post Office & Courthouse, 101 Holmes Avenue, Huntsville, Alabama
Janitorial/Custodial, Federal Aviation Administration, Air Traffic Control Tower Facility, Newark International Airport, Newark, New Jersey
Janitorial/Custodial, U.S. Army Reserve Center, Hoyt Avenue, Binghamton, New York
Janitorial/Custodial, Department of Veterans Affairs, Franklin D. Roosevelt Hospital, Buildings 17, 18, 29, 39, 52, Paint Shop & Chapel, Montrose, New York
Janitorial/Custodial, Eafratti U.S. Army Reserve Center, Front Street, Terrace Heights, Weirton, West Virginia
POV Overseas Export/Import Processing, Norfolk Naval Base, Building CEP–57, Norfolk, Virginia
Switchboard Operation, Department of Veterans Affairs Medical Center, 3601 South 6th Avenue, Tucson, Arizona

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–24329 Filed 9–28–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 30, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and service to the Government.

2. The action will result in authorizing small entities to furnish the commodity and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and service have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Case, Medical Instrument
6545–01–094–6142
NPA: Georgia Industries for the Blind, Bainbridge, Georgia

Service

Janitorial/Custodial, Ariel/Rios Federal Building, 12th & Pennsylvania Avenue, NW., Washington, DC
NPA: The Chimes, Inc., Baltimore, Maryland

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–24330 Filed 9–28–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 30, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and service.

3. The action will result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification

on which they are providing additional information.

The following commodities and service have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Pallet, Runner
3990–01–415–6951
NPA: Tarrant County Association for the Blind, Fort Worth, Texas
Basin, Wash
6530–01–075–2723
NPA: The Arc of St. Clair County, Port Huron, Michigan
Folder, File
7530–00–663–0031
(Requirements for the Stockton, California depot only)
NPA: Lions Club Industries, Inc., Durham, North Carolina
Raleigh Lions Clinic for the Blind, Inc., Raleigh, North Carolina
Insert, Foam, Laminated
8135–00–NSH–0004
(Requirements for the U.S. Mint, Washington, DC)
NPA: Goodwill Industries of the Columbia Willamette, Portland, Oregon

Service

Janitorial/Custodial, Beaver U.S. Army Reserve Center, 2001 Industrial Park Road, Beaver, West Virginia
NPA: Wyoming County Workshop, Inc., Maben, West Virginia

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–24331 Filed 9–28–95; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for Future 404 Permit Actions on the Santa Clara River and its Tributaries, Los Angeles County, California

AGENCY: U.S. Army Corps of Engineers DOD.

ACTION: Notice of intent.

SUMMARY: The Corps will prepare a Draft Environmental Impact Statement (DEIS) for a Proposed General Permit on future 404 permit activities associated with the phased development of the Valencia Master Plan along a portion of the Santa Calra River and its tributaries, Los Angeles County, California. The proposed 404 decision(s) are associated with proposed flood control and transportation projects related to residential, commercial and industrial development on lands owned by Valencia Company. The EIS will address project-specific impacts, indirect and cumulative impacts, and a range of alternatives. Information in the EIS will be used in the decision whether to issue a 404 permit or series of permits for future flood control improvements, bridges, drainage facilities, and other actions associated with the continual development of the region. The draft EIS is currently scheduled for public review in early 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Henderson, Regulatory Branch, CESPL–CO–R, Permit Number 94–504–BH, U.S. Army Corps of Engineers, Los Angeles District—300 North Los Angeles Street, Los Angeles, CA 90012. Copies of the Special Scoping Notice dated March 16, 1994 may be obtained by calling (213) 894–5606 and indicating that you are requesting a copy of the Valencia Special Scoping Notice, and leaving your name, address (or fax number), and phone number. Additional documents relative to the project may be reviewed by contacting the Los Angeles District (address above); the Ventura Field Office of the Corps of Engineers 2151, Alessandro Drive, Suite 255, Ventura CA 93001, (805) 641–1127; or Mr. Mark Subbotin, Valencia Company, 23823 Valencia Company, 23823 Valencia Blvd., Valencia, CA 91335, (805) 255–4069.

SUPPLEMENTARY INFORMATION:

Previous Notices

A Notice of Intent (NOI) for a previous version of this project was issued Oct. 10, 1990. The DEIS was not completed. Since 1990 Valencia Company has: (1) Completed hydrologic studies which resulted in revisions to the proposed flood control improvements; and (2) explored the use of a general permit and Environmental Assessment/Finding of No Significant Impact (EA/FONSI) for the proposed project.

A Special Scoping Notice to consider a General Permit for the project was issued by the Los Angeles District Corps of Engineers on March 16, 1994 (See below to obtain copies.) Comments were received, responded to by the applicant, and reviewed by the Corps. The Corps determined that an EIS should be prepared because: (1) Potentially significant individual and cumulative impacts to wetlands, riparian habitat, and endangered species resources along portions of the river might occur; (2) there is a need to evaluate cumulative impacts to such resources from other discharges in the vicinity; and (3) other permit processes in the watershed have generated impacts to the biological community. The Corps further determined that it was premature to make a decision regarding whether a General Permit was the appropriate form of permit for this project. This determination was based on the fact that it appeared that the proposed project, with mitigation, could not meet the "minimal impacts" requirement for a General Permit.

Study Area

The project area includes 2.0 liner miles of the South Fork of the Santa Clara River, the mouth of Bouquet Creek, 2.5 linear miles of San Francisquito Creek, 7.6 linear miles of the mainstream of the Santa Clara River and jurisdictional tributaries from near the Los Angeles Aqueduct crossing to the Castaic Creek confluence.

Proposed Action

The proposed action is the issuance of a Clean Water Act Section 404 permit or set of permits to Valencia Company that would authorize numerous flood control and drainage facilities, and bridges over a 15 to 20 year period. These public works projects will be associated with various residential, commercial, industrial, and recreational developments. Most of the proposed development projects would be carried out by Valencia Company; however, several of the identified projects may be constructed by others, using the proposed permit issued to Valencia Company. If a general permit is issued, it would apply to other applicants in addition to Valencia Company.

Valencia Company is currently planning and constructing various component projects of the Valencia Master Plan along portions of the Santa Clara River and its tributaries. Certain projects along the river and its tributaries will result in excavation and/or the discharge of dredged or fill material into waters of the United States ("waters") as defined in 33 CFR 320–330 under provisions of Section 404 of the Clean Water Act. These activities require a Department of the Army permit. Projects resulting in excavation and/or discharges include channel bank protection for flood control, drainage structures, bridges, fill, mitigation or other encroachment into the Santa Clara River and its tributaries.

The proposed action to be addressed in the EIS has been substantially revised since the 1990 NOI, but is essentially the same as that described as the "Natural River Management Concept" in the 1994 Special Scoping Notice. This concept includes the following elements: (1) Channel bank protection will be placed only where necessary; (2) bank protection will be placed such that

impacts to wetlands along the river will be avoided or minimized where practicable; (3) a balance of wetland losses and wetland gains (by mitigation) will be sought; and (4) as proposed, clearing of vegetation in the finished river channel for maintenance purposes will not be necessary. (Los Angeles County Department of Public Works is in concurrence with this goal for most areas of the proposed project. Negotiations on the details of the maintenance agreement ("agreement") between Valencia Company and L.A. County Public Works are in process. The agreement must be signed prior to completion of the DEIS in order that the agreement and a discussion of its ramifications can be included in the DEIS. (If the signed agreement cannot be included in the DEIS other alternative maintenance regimes will be considered in the DEIS.)

Scope of Analysis in the EIS

The scope of the EIS impact analysis will follow the directives in 33 CFR 325 (Appendices B and C) which require the scope of an EIS be limited to the impacts of the specific activities requiring a 404 permit and only those portions of the project outside of waters where there is sufficient federal control and responsibility to warrant federal review. The latter activities are characterized as those which would not occur "but for" the 404 discharge activity. That is, related actions that are clearly and solely dependent upon the nearby 404 activities.

The EIS will address impacts of facilities that would occur within jurisdictional waters. In addition, the EIS will address adjacent land development projects in the "but for zone" (see below) that are directly dependent on adjacent bank protection or levees.

The EIS will address potential permitting strategies in which an individual permit, general permit, or combination of individual, nationwide, and/or general permits, are issued. The permit timeframe would be 5 years, with administrative renewals over a 15 to 20 year period in accordance with Corps regulations.

"But for Zone"

The EIS will clearly delineate a "but for zone" along the edge of jurisdictional waters. The boundary of the "but for zone" to be used as the upland limit of the EIS impact assessment is defined as 105 feet inland from the existing river bank. The 105 feet determination is based on information that 105 feet is the distance necessary to move the levee laterally in order that both the toe of the levee and the construction zone would be behind the bank (i.e. all structures and construction would be in uplands and therefore not regulated by the Corps under Section 404 of the Clean Water Act). Bank protection installed within "but for zone" will result in permanent or temporary discharges of dredged or fill material to waters, and therefore require a 404 permit. Bank protection installed outside this zone, would not affect waters and therefore would not require a 404 permit.

Valencia Company submitted the following statement in justification for limiting the lateral extent of the Scope of Analysis to 105 feet:

"Arguments For Justifying The Development Assumptions Outside

The "But For" Zone, Valencia Master Plan 404 Permit

The scope of the EIS impact analysis will follow the directives in 33 CFR 325 that require the scope of an EIS be limited to the impacts of the specific activities requiring a 404 permit, and only those portions of the project outside of "waters" over which the Corps has sufficient control and responsibility to warrant federal review. The latter activities would include actions that would not occur "but for" the 404 discharge activity. That is, related actions that are clearly and solely dependent upon the nearby 404 activities.

The boundary of the "but for zone" to be used as the upland limit of the EIS impact assessment is defined as 105 feet inland from the existing river bank. Bank protection installed in uplands within this zone will result in temporary impact to "waters," and therefore require a 404 permit. Bank protection installed outside would not affect "waters", and therefore would not require a 404 permit.

The impacts of future land development and public works projects outside the "but for zone" would not be addressed in the EIS because it is a reasonable assumption that such projects would occur with or without the issuance of a 404 permit for bank protection, which would allow land development within the "but for zone". In other words, future land development and public works projects are independent of the proposed bank protection and will not be addressed in the EIS as an action that is linked, dependent upon, or otherwise caused by the proposed 404 permit. The justification for this approach is based on the reasonable assumption that lands outside the "but for zone" where the Corps has no permit jurisdiction will be developed in the future. This assumption is based on the following considerations:

1. There are tremendous economic and population pressures in the region. The population of the Santa Clarita Valley has been growing rapidly since 1970 and 1980. The valley experienced a 23.7% increase in population. Between 1980 and 1989, the population doubled to approximately 154,000 people. The City and County's General Plans project populations which will double again by the year 2010. The Southern California Association of Governments (SCAG) adopted a new demographic projections in June 1994 which showed the Santa Clarita Valley population at 462,000 people by the year 2015.

Employment is expected to increase by even greater percentage. SCAG Forecasts from the City of Santa Clarita General Plan shows employment growing from an estimated 23,000 in 1984 to 97,000 jobs in the year 2010, an increase of over 315%. At its peak in the late 1980's industrial square footage was being added at a rate of a million square feet per year. Another measure of demand for industrial square footage is the vacancy rate which is currently 6.5% in the Valencia Industrial Center. This compares to 11.3% in the San Fernando Valley and 12.7% in Southern California. Retail commercial space has shown similar strengths in the Santa Clarita Valley. The Santa Clarita area has exhibited an annual retail sales rate of 11.5% in the last seven years, compared to retail sales rate of only 2% in the last five years in California.

2. Lands outside the "but for zone" in the City are zoned for development. Lands outside the "but for zone" in the City of Santa Clarita are zoned for residential, commercial, and industrial uses and are surrounded by these same land uses. Valencia Company intends to continue this type of development to meet the demands of the growing population in the Santa Clarita Valley. One of the principal components of the City of Santa Clarita's General Plan is the "Valley Center Concept". This concept is intended to create a valley identity and to unify surrounding communities by designating a central core of the valley. Within this area, higher density residential and commercial land uses would be allowed to permit lower densities in the surrounding communities. The Santa Clara River corridor is the major opportunity to link the components of the center together with the uniform theme of natural open space preservation and river enhancement.

3. Land outside the "but for zone" in the unincorporated portions of the County are designated for commercial and industrial development in the General Plan. Many are still zoned for agriculture; however, zone change requests for residential, commercial, and industrial uses are being processed by the County to make the zoning consistent with the General Plan designations and allow urban development. Valencia Company and others intend to continue residential, commercial, and industrial developments to meet the demands of the growing population in the region.

4. Lands outside the "but for zone" in the County are zoned for Development. Land development outside the "but for zone" is feasible without adjacent 404 permits. If a Corps permit were not issued and the "but for zone" was not developed, land development would still be feasible outside the "but for zone". However, less land would be available and many parcels would be reduced in size and altered in terms of their configurations. These effects would reduce the value and potential uses of these

properties. However, these lands are located within areas already surrounded by urban land uses. As such, there is a high priority to develop these lands prior to developing lands at more remote locations in the Santa Clarita Valley for several reasons: (1) The infrastructure is already present in these areas; and (2) the City and County General Plans emphasize in-filling of such areas within the urbanized portions of the valley in order to prevent scattered and disjunct development of outlying areas.

Development of flood protection features outside the "but for zone" if feasible. Such protection could involve several options: (1) Elevating land development projects above the floodway in accordance with Los Angeles County requirements; or (2) excavating dry land and installing levees and/or bank protection. Hence, the distance of the "but for zone" from the river (105 or more feet) would not represent a constraint on flood protection improvements.

Based on the above considerations, the assumption that the land outside the "but for zone" would be developed with or without the proposed 404 permit is reasonable.

Key Environmental Impacts

The key types of environmental impacts to be addressed in the EIS are listed below:

a. Riparian habitat and wetlands—Future flood control projects could result in the permanent or temporary loss or temporary disturbance of riparian and wetland habitat. The Valencia Master Plan includes the creation and restoration of riparian and wetland habitats along the river to compensate for these losses in other portions of the river. The EIS will assess the loss or gain of these resources over the short term and long term based on their acreages, functions, and values.

b. Threatened and endangered species—Portions of the Santa Clara River support the Federally listed endangered unarmored threespine stickleback fish (*Gasterosteus aculeatus williamsoni*).

In addition, riparian habitat along the river provides potentially suitable habitat for the Federally listed endangered least Bell's vireo (*Vireo belli pusillus*). These species could be affected by loss of wetlands, change in hydrologic conditions, and increased urban runoff. Species Proposed or designated as Candidates for Federal listing will also be addressed in the EIS.

c. Hydraulics, hydrology, and water quality—The EIS will address the effects of bank protection, bridges, and adjacent upland development on the river's hydrology, flood hazard conditions, hydraulic characteristics, sediment transport, and water quality.

d. The EIS will also address impacts of the proposed action (within the scope of analysis) related to air quality, groundwater, recreation, visual resources, noise, traffic, land use, and cultural resources.

Cumulative Impacts

The EIS will address the combined effects of various future flood control facilities and urban development encroaching into the river from Lang Station (7.1 miles upstream of the east end of the project reach) to the Ventura County line 4.1 miles downstream of the west end of the project reach), including major tributaries. The assessment will focus on adverse cumulative impacts to water quality, sediment transport conditions, riparian and wetland habitat, and threatened and endangered species. Other cumulative impacts will also be addressed regarding air quality, groundwater, recreation, visual resources, and cultural resources.

Alternatives

The following alternatives will be addressed in the EIS: (1) No action Alternative—denial of a long-term comprehensive permit and lack of any new Section 404 authorizations allowing future development projects; limited authorizations issued by the Corps would be presumed only for emergency work on existing projects and minimal impact maintenance projects; (2) Full Encroachment Alternative—conventional uniform bank protection according to previous Los Angeles County Public Works Department plans, resulting in encroachment into the river at most locations (which would maximize developable land); (3) Complete Avoidance Alternative-placement of levees and bank protection outside of waters at all locations, avoiding the need for a Corps 404 permit except at bridge and side drain locations; (4) Refined Proposed Project Alternative—the proposed project with revisions to the channel alignment and placement to avoid certain site-specific impacts or highly sensitive areas that will be identified in the EIS impact studies; (5) Other Alternatives—other alternatives identified in the public scoping process that are consistent with the project objectives and do not have other new significant impacts; and (6) Permitting Alternatives—a range of permitting process alternatives, including various combinations of general, nationwide, and individual permits and administrative processes.

Public Involvement

Interested parties are encouraged to be involved in the scoping process by sending written comments concerning the scope of the EIS to the contact person noted above. Written comments on the NOI are due to Corps Regulatory at the address noted below no later than October 31, 1995.

In addition, a public scoping meeting is scheduled for October 5, 1995, 7:00 pm to 10 pm, at the Valencia Hilton Garden Inn in the Pacific A and B rooms, 27710 The Old Road, Valencia. Interested parties are encouraged to attend.

Richard J. Schubel,

Acting Regulatory Branch.

[FR Doc. 95–24190 Filed 9–28–95; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF ENERGY

Office of Environment, Safety and Health

[Notice 96–01]

Continuation of Solicitation for Epidemiology and Other Health Studies Financial Assistance Program

AGENCY: Department of Energy.

ACTION: Annual notice of continuation of potential availability of grants and cooperative agreements.

SUMMARY: The Office of Health Studies within the Office of Environment, Safety and Health of the Department of Energy (DOE) announces its continuing interest in receiving applications for grants and cooperative agreements for occupational and environmental health studies related to nuclear weapons production, research, development, storage and dismantling and energy production, transmission and use. A final program rule, which specifies the general policies and procedures governing the purpose and scope, program areas, eligibility, application requirements, evaluation criteria, solicitation and selection procedures for the Office of Health Studies financial assistance program, was published in the **Federal Register** (60 FR 5838) on January 31, 1995, effective March 2, 1995. Proposed research applications and pre-applications shall comply with 10 CFR Part 602.

The three offices within the Office of Health Studies, the Office of Epidemiologic Studies, the Office of International Health Studies, and the Office of Occupational Medicine and Medical Surveillance, promote studies to identify and assess the health risks associated with occupational or environmental exposures to ionizing radiation or toxic chemicals in the following populations: Employees of DOE and of DOE contractors

(particularly those at high-risk for exposure to ionizing radiation or toxic chemicals), residents of communities near DOE facilities, and populations throughout the world at high-risk for exposure to ionizing radiation or toxic chemicals resulting from accidental exposures or proximity to nuclear or other energy-related facilities. Deliberate exposure of human subjects in ongoing radiation experiments is outside the scope of this announcement. Access and use of information for conducting studies under this notice will comply with the Amendment to the Federal Privacy Act of 1974 regarding Existing Systems of Records, published June 28, 1995, effective August 7, 1995 (60 FR 33510).

DATES: Deadlines for applications or pre-applications will be contained in separate Notices of Availability to be published at a later time in the **Federal Register** that will address specific program areas to be funded by the Office of Health Studies in fiscal year 1996. However, all applications accepted under this notice must be received by the Office of Health Studies on or before September 30, 1996.

ADDRESSES: After the issuance of a Notice of Availability, applicants may obtain additional information from Dr. Paul Seligman, Deputy Assistant Secretary, Office of Health Studies (EH–6), U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290; facsimile: 301–903–3445; telephone: 301–903–5926.

SUPPLEMENTARY INFORMATION: For fiscal year 1996, the Office of Health Studies estimates that approximately $2.5 million will be available for grants in occupational and environmental health studies. The number of awards made will depend on the number of applications received for which the results of competitive merit review are favorable. Of this total, the Office of International Health Studies anticipates that approximately $500,000 will be available to support research to improve an understanding of the health effects and to assess the health risks of exposures to ionizing radiation in workers and populations throughout the world with potential radiation exposures. Of the remainder, the Office of Occupational Medicine and Medical Surveillance anticipates that approximately $2 million will be available in the form of a cooperative agreement to identify and assess former workers at DOE facilities at risk for occupational diseases. Separate Notices of Availability will be issued in the **Federal Register** for these two programs.

The Office of Epidemiologic Studies does not anticipate having funds available to support either cooperative agreements or grants during fiscal year 1996.

Pursuant to a Memorandum of Understanding between DOE and the Department of Health and Human Servies (56 FR 9701), published March 7, 1991, additional funds to study (1) occupational health and safety issues arising from exposures to radiation and toxic chemicals at nuclear and other energy-related facilities and (2) methodology for risk assessment and epidemiologic research may be available through the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC); see **Federal Register** Announcement 521 (60 FR 4916), published January 25, 1995, or contact Richard Hornung, Associate Director for Energy-Related Health Research, NIOSH, Mail Stop R–44, 4676 Columbia Parkway, Cincinnati, OH 45226; telephone: 513–841–4400.

The National Center for Environmental Health of CDC previously awarded funds for radiation-related research, including dose reconstruction studies, but does not anticipate any additional funds for fiscal year 1996. (For current information contact Paul Renard, Chief, Radiation Studies Branch, NCEH, 4770 Buford Highway, NE., Atlanta, GA 30341; telephone: 404–488–7040.)

DOE is under no obligation to pay for any cost associated with the preparation or submission of any application. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this notice. Results of studies carried out as grants or cooperative agreements with the Office of Health Studies will be made available to DOE workers, to the public, and to managers responsible for protecting worker health and safety.

Issued in Washington, DC, on September 15, 1995.

Paul J. Seligman,

Deputy Assistant Secretary for Health Studies.

[FR Doc. 95–24266 Filed 9–28–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP95–762–000, et al.]

Northern Natural Gas Company, et al.; Natural Gas Certificate Filings

September 21, 1995.

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Company

[Docket No. CP95–762–000]

Take notice that on September 18, 1995, Northern Natural Gas Company (Natural), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP95–762–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install and operate a new delivery point to accommodate natural gas deliveries to Western Gas Utilities, Inc. (WGU), located in Hennepin County, Minnesota, under Natural's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that WGU has requested the proposed delivery point to accommodate service due to expansion of its distribution system into new areas. Northern states further that the estimated volumes to be delivered to WGU are 2,000 MMBtu on a peak day and 601,920 MMBtu on an annual basis.

It is said that the estimated cost to install the delivery point would be $60,000.

Comment date: November 6, 1995, in accordance with Standard Paragraph G at the end of this notice.

2. Transcontinental Gas Pipe Line Corporation, ANR Pipeline Company, Texas Eastern Transmission Corporation

Docket No. CP95–753–000

Take notice that on September 13, 1995, Transcontinental Gas Pipe Line Corporation (Transco), P. O. Box 1396, Houston, Texas 77251, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, and, Texas Eastern Transmission Corporation (TETCO), P. O. Box 1642, Houston, Texas 77251–1642, collectively referred to as Applicants, filed in Docket No. CP95–753–000 a joint application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a natural gas transportation and exchange service which was authorized in Docket No. CP80–82, all as more fully set forth in the application on file with the Commission and open to public inspection.

The Applicants state that they entered the agreement on September 25, 1979 wherein Transco was to receive almost 10,000 Mcf/d for TETCO's account from ANR at (1) the tailgate of the Mobil Cameron Meadows Plant near Johnson's Bayou, Louisiana, and/or (2) the interconnect between ANR's pipeline

facilities and those of High Island Offshore System in West Cameron Block 167, Offshore Louisiana. Transco would redeliver thermally equivalent natural gas quantites to TETCO at the Ragley, Louisiana existing interconnection. The agreement then provided that Transco at the Ragley, Lousiana interconnection would receive from TETCO almost 70,000 Mcf/d for ANR's account. Transco would then redeliver thermally equivalent natural gas quantities to ANR at the tailgate and/or interconnect as discussed above.

The agreement is included as Transco's Rate Schedule X–220, ANR's Rate Schedule X–98, and TETCO's Rate Schedule X–110, from their Volume No. 2 FERC Gas Tariffs. Authorization for the transportation and exchange arrangement was granted by the Commission's April 16, 1980 order in Docket No. CP80–82.

The Applicants state that the agreement was in effect for a one year primary term from the date of first delivery, August 20, 1980, and continues year-to-year unless terminated in writing by any party. ANR on August 24, 1993 provided a written notice of termination to Transco and TETCO. On July 14, 1995, ANR, Transco and TETCO terminated the agreement, effective May 31, 1995, stating that the transportation and exchange service was no longer required.

Comment date: October 12, 1995, in accordance with Standard Paragraph F at the end of this notice.

3. Texas Eastern Transmission Corporation

[Docket No. CP95–766–000]

Take notice that on September 19, 1995, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 1642, Houston, Texas, 77251–1642, filed in Docket No. CP95–766–000 a request pursuant to Sections 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, and 157.211) for approval to construct and operate a new delivery point for United Cities Gas Company (United Cities), a local distribution company and existing Texas Eastern customer, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Eastern proposes to construct, own, and operate an eight-inch tap valve, an eight-inch check valve, an insulating flange and approximately fifty feet of piping between such tap valve, check valve and insulating flange (collectively referred to as the Tap) to interconnect Texas Eastern's Line 15 at milepost 243.00 in Maury County, Tennessee, with United Cities. It is indicated that United Cities will construct two six-inch turbine meter runs plus associated piping and valves, pressure regulation and/or over-pressure protection equipment plus associated piping and valves, flow control equipment, and all associated instrumentation. Texas Eastern states that United Cities will also construct approximately 550 feet of eight-inch pipeline between the proposed Texas Eastern eight-inch check valve and the proposed meter station and electronic gas measurement equipment. Texas Eastern avers that it will own, operate, and maintain parts of the facility and that United Cities will operate and maintain other parts of the facility. Texas Eastern further states that it will partially reimburse United Cities for its construction costs in the amount of $340,000.

Texas Eastern proposes to render up to 50,000 Dth/day of Rate Schedule FT–1 service for United Cities at the proposed delivery point. Texas Eastern states that United Cities presently has firm service agreements with Texas Eastern under Rate Schedules FT–1, CDS, and SS–1. It is indicated that these service agreements are executed pursuant to Subpart G of the Commission's Part 284 regulations. Texas Eastern further states that United Cities and Texas Eastern executed an additional firm transportation agreement on October 24, 1994, pursuant to Texas Eastern's Rate Schedule FT–1. Texas Eastern indicates that the agreement has a primary term of seven years commencing on November 1, 1994, and ending October 31, 2001, pursuant to Texas Eastern's Part 284, Subpart G blanket certificate. It is further indicated that pursuant to the agreement Texas Eastern provided up to 3,500 Dth/day for the period November 1, 1994, through August 31, 1995, and on September 1, 1995, United Cities' maximum daily quantity increased up to 5,000 Dth/day for the remainder of the primary term of the agreement. Texas Eastern avers that the quantities of gas to be delivered to United Cities will be within United Cities' certificated entitlement.

Texas Eastern submits that the installation of the proposed delivery point will have no impact on its peak day or annual deliveries. Texas Eastern further submits that its proposal herein will be accomplished without detriment or disadvantage to its customers and that its existing tariff does not prohibit the addition of delivery points.

Comment date: November 6, 1995, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed

for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–24235 Filed 9–28–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket Nos. RP95–149–000 and RP95–263–000]

ANR Pipeline Company; Notice of Informal Settlement Conference

September 25, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on Monday, October 2, 1995, at 1:00 p.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact William J. Collins (202) 208–0248 or Mary C. Hain (202) 208–1087.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–24236 Filed 9–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1719–000]

Kentucky Utilities Company; Notice of Filing

September 25, 1995.

Take notice that on September 5, 1995, Kentucky Utilities Company tendered for filing copies of an executed Service Agreement for Power Services with Heartland Energy Services, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 6, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–24204 Filed 9–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1717–000]

Kentucky Utilities Company; Notice of Filing

September 25, 1995.

Take notice that on September 5, 1995, Kentucky Utilities Company tendered for filing copies of an executed Service Agreement for Power Services with ENRON Power Marketing, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 6, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–24206 Filed 9–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–326–000 and RP95–242–000]

Natural Gas Pipeline Company of America; Notice of Technical Conference

September 25, 1995.

Take notice that the technical conference in these proceedings which was convened July 13 and August 3, 1995, will continue on Friday, October 6, 1995, at 10:00 a.m., in a room to be designated at the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. As established at the August 3, 1995 conference, the discussion at the October 6 conference will be limited to the remaining fuel issues. All interested persons and staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 95–24203 Filed 9–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–661–001]

Texas Eastern Transmission Corporation; Notice of Amendment to Application

September 25, 1995.

Take notice that on September 22, 1995, Texas Eastern Transmission Corporation ("Texas Eastern"), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP95–661–001 an amended abbreviated application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to Texaco Pipeline Inc. ("Texaco Pipeline") approximately 37.48 miles of 20-inch pipeline, the associated scraper traps and certain valves and appurtenant piping, (collectively known as "Line No. 40–E") all in the Lafourche and Terrebonne Parishes, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Eastern states that the intent of this Amendment is to facilitate the sale of Texas Eastern's Line No. 40–E and to separate the abandonment of the Point Au Chien compressor station, certain laterals, meter stations and appurtenant facilities associated with such Line 40–E, but not included in the sale to Texaco Pipeline, from the facilities to be sold in order to meet the November 1, 1995, closing deadline as set forth in the Purchase and Sale Agreement with Texaco Pipeline. Those facilities not included in the sale to Texaco Pipeline are the subject of a application filed concomitantly in Docket No. CP95–776–000.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a

party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Eastern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–24207 Filed 9–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–650–001]

Questar Pipeline Company; Notice of Amendment to Application

September 25, 1995.

Take notice that on September 21, 1995, Questar Pipeline Company (Questar Pipeline), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP95–650–001 and amendment to its application in Docket No. CP95–650–000, pursuant to Section 7(b) of the Natural Gas Act, seeking authority to abandon any certifications that may still surround its Bonanza-Divide Creek gathering facilities located in eastern Utah and western Colorado, all as more fully set forth in the amendment that is on file with the Commission and open to public inspection.

It is stated that Questar Pipeline, on July 31, 1995, in Docket No. CP95–650–000, and Questar Gas Management Company (QGM), on August 2, 1995, in Docket No. CP95–658–000, filed, respectively, an abandonment application and a petition for declaratory order collectively providing for the transfer (spin down) of all of Questar Pipeline's gathering facilities, as well as specific anomalous "certificated gathering" and transmission facilities, to Questar Pipeline's wholly owned, unregulated subsidiary, QGM. Questar Pipeline explains that among the facilities proposed to be spun down to QGM are certain gathering facilities, located between Bonanza, Utah, and the Divide Creek area of western Colorado, that have been thoroughly described in QGM's Docket No. CP95–658–000 Petition for Declaratory Order.

Questar Pipeline states that since their acquisition, despite the fact that, (1) it has accounted for the facilities as non-jurisdictional gathering and (2) in its view, the gathering facilities have consistently met the Commission's functional tests for qualifying gathering facilities, certain 20 to 30 year-old certifications may still be linked to these facilities. Therefore, it is explained, Questar Pipeline, in its amendment, formally requests authority to abandon all certificate authorizations that may exist in connection with Questar Pipeline's Bonanza-Divide Creek gathering facilities.

Any person desiring to be heard or to make any protest with reference to said amendment to the application should on or before October 5, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Questar Pipeline to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–24208 Filed 9–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1718–000]

Kentucky Utilities Company; Notice of Filing

September 25, 1995.

Take notice that on September 5, 1995, Kentucky Utilities Company tendered for filing copies of an executed Service Agreement for Power Services with Heartland Energy Services, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 6, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–24205 Filed 9–28–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00177; FRL–4980–7]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the following information collections as described below. The ICRs are: (1) A

proposed ICR entitled "Design for the Environment (DfE) Screen Printing Survey," (2) a proposed ICR entitled "Design for the Environment (DfE) Collection of Impact Data on Technical Information," and (3) a continuing ICR entitled "TSCA Section 12(b) Notification of Chemical Exports," ICR No. 795, OMB No. 2070–0030. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

DATES: Written comments must be submitted on or before November 28, 1995.

ADDRESSES: Submit three copies of all written comments to: TSCA Document Receipts (7407), Rm. NE–G99, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–7099. All comments should be identified by the respective administrative record numbers: Comments on the proposed ICR entitled "Design for the Environment (DfE) Screen Printing Survey" should reference administrative record number 145; comments on the proposed ICR entitled "Design for the Environment (DfE) Collection of Impact Data on Technical Information" should reference administrative record number 146; and comments on ICR No. 795, "TSCA Section 12(b) Notification of Chemical Exports," should reference administrative record number 147. These ICRs are available for public review at, and copies may be requested from, the docket address and telephone number listed above.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the appropriate administrative record number and ICR number. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit III. of this document.

FOR FURTHER INFORMATION CONTACT: For general information contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–554–1404, TDD: 202–554–0551, e-mail: TSCA-Hotline@epamail.epa.gov.

For technical information contact the following individuals:

For the proposed ICR entitled "Design for the Environment (DfE) Screen Printing Survey," contact Jed Meline, Economics, Exposure and Technology Division (7406), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–0695.

For the proposed ICR entitled "Design for the Environment (DfE) Collection of Impact Data on Technical Information," contact Irina Vaysman, Economics, Exposure and Technology Division (7406), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–1312.

For ICR No. 795, "TSCA Section 12(b) Notification of Chemical Exports," contact Wanda Woodburn, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–3795.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of each ICR are available from the EPA Public Access Gopher (gopher.epa.gov) at the Environmental Sub-Set entry for this document under "Rules and Regulations."

I. Background

Entities potentially affected by this action are those: which export or engage in wholesale sales of chemicals; which are engaged in screen printing or other graphics imaging activities; or which are part of industry sectors that may interact with EPA in the Agency's Design for the Environment (DfE) program. For the collections of information addressed in this notice, EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

II. Information Collections

This unit addresses three ICRs, which are identified and discussed separately below.

Title: Design for the Environment (DfE) Screen Printing Survey (proposed collection; ICR number, OMB control number, and expiration date not applicable).

Abstract: EPA's Design for the Environment program, administered by the Office of Pollution Prevention and Toxics, is a voluntary, non-regulatory approach to encourage industry to adopt technologies and use materials that result in lower levels of pollution, lessened reliance on toxic materials, higher energy efficiency and lower environmental health risks. Through DfE, EPA creates partnerships with industry, professional organizations, state and local governments, other federal agencies, and the public to develop and disseminate technical information.

The proposed study will focus on facilities that print graphic arts materials, such as fine art prints, billboard advertisements, posters, and electronic equipment. EPA, the Screen Printing and Graphic Imaging Association International (SGIA, the principal association of the screen printing industry), and the University of Tennessee Center for Clean Products and Clean Technologies have developed technical information for screen printing facilities on the use of screen reclamation processes and other workplace practices that may lower health risks to workers and prevent pollution. The purpose of the study is to evaluate the impact of such DfE technical information on screen printing industry practices, use of materials, and waste generation. The proposed study would involve two telephone surveys of owners or operators of screen printing establishments: an initial survey of a sample of 350 screen printing establishments, and a follow-up survey to be administered about 2 years later. This notice addresses burden estimates only for the initial survey.

Responses to the collection of information are voluntary. EPA and the EPA contractor administering the survey

will observe strict confidentiality precautions, based on the Privacy Act of 1974, which are outlined in detail in the ICR.

Burden Statement: The burden to respondents for complying with this ICR is estimated to total 438 hours at a total cost of $10,938. These totals are based on an average burden of approximately 1.25 hours per response for 350 respondents, responding once to this survey. There are no recordkeeping requirements associated with this collection. This estimate includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Title: Design for the Environment (DfE) Collection of Impact Data on Technical Information (proposed collection; ICR number, OMB control number, and expiration date not applicable).

Abstract: This is a generic ICR for a series of studies to undertake data collection in support of EPAs DfE program. The concept of the DfE program is detailed above. These studies are referred to as the DfE Technical Information Impact Studies. The studies will focus on various industrial sectors such as printing, printed wiring board circuitry, and dry cleaning. (The ICR entitled "DfE Screen Printing Survey," described above, is a specific example of the type of collection envisioned by this generic ICR.) The purpose of all DfE Technical Information Impact Studies will be to evaluate the impact of DfE technical information on industry practices, use of materials and waste generation. In each case, EPA, often in collaboration with industry associations and universities, will have developed technical information for industry on the use of product reclamation processes and other workplace practices that may lower health risks to workers and prevent pollution. The proposed studies would each involve two separate surveys of owners or operators of target industry establishments. The initial survey would establish a baseline representing pre-technical information receipt. A follow-up survey will be administered approximately 2 years later to establish longer-term impacts of the technical materials. The overall goal of this before-and-after design is to understand the impacts of DfE technical information on workplace practices and technologies that generate or prevent pollution. This generic ICR will allow EPA to conduct a series of small conceptually interrelated surveys. It will permit the DfE program the ability to collect information in a timely manner and to evaluate the effectiveness of the technical materials EPA provides to industry. EPA will be the principal user of information developed from the survey findings, but EPA expects that tens of thousands of small businesses in a variety of industry sectors will benefit from the results of the studies.

Responses to the collection of information are voluntary. EPA and any EPA contractor administering the surveys will observe strict confidentiality precautions, based on the Privacy Act of 1974, which are outlined in detail in the ICR.

Burden Statement: Because it is not known how many surveys will be conducted, it is not possible to estimate the total burden or cost of the information collection. However, EPA expects that there will be an average burden of approximately 1.25 hours per response, and that the number of respondents will be in the range of 300 to 500 for each survey, with each respondent responding once to a given survey. There are no recordkeeping requirements associated with these surveys. These estimates include the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Title: Notification of Chemical Exports, ICR No. 795, OMB No. 2070–0030, expires February 28, 1996.

Abstract: Section 12(b)(2) of the Toxic Substances Control Act (TSCA) requires that any person who exports or intends to export to a foreign country a chemical substance or mixture that is regulated under TSCA sections 4, 5, 6 and/or 7 submit to EPA notification of such export or intent to export. Upon receipt of notification, EPA will advise the government of the importing country of the U.S. regulatory action with respect to that substance. EPA uses the information obtained from the submitter via this collection to advise the government of the importing country.

Responses to the collection of information are mandatory (see 40 CFR part 707). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2. However, notwithstanding any claims of confidentiality, the government of the importing country will be notified of the export of the substances in question.

Burden Statement: The burden to respondents for complying with this ICR is estimated to total 3,800 hours per year, with an annual cost of $111,856. These totals are based on an average burden of approximately 0.5 hours per response for an estimated 200 annual respondents, reporting generally once annually per each country to which the respondent exports chemicals. There are no recordkeeping requirements associated with this collection. This estimate includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

III. Public Docket

A record has been established for this action under docket number "OPPTS–00177" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental protection and Information collection requests.

Dated: September 22, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–24118 Filed 9–28–95; 8:45 am]

BILLING CODE [illegible]

[OPPTS–00176; FRL–4980–8]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the following information collections as described below. The ICRs are: (1) "Health and Safety Data Reporting Rule," ICR No. 575, OMB No. 2070–0004; (2) "Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reaction to Human Health or the Environment," ICR No. 1031, OMB No. 2070–0017; and (3) "Significant New Use Rules for Existing Chemicals," ICR No. 1188, OMB No. 2070–0038. These are not the final draft ICRs. In the absence of final drafts of the ICRs as of the date of publication of this notice, EPA is extending the required 60–day public notice and comment period, which ordinarily would commence with the date of publication of this notice, until December 15, 1995. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

DATES: Written comments must be submitted on or before December 15, 1995.

ADDRESSES: Submit three copies of all written comments to: TSCA Document Receipts (7407), Rm. NE–G99, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone 202–260–7099. All comments should be identified by the respective administrative record numbers: Comments on ICR No. 575, "Health and Safety Data Reporting Rule," should reference administrative record number 148; comments on ICR No. 1031, "Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reaction to Human Health or the Environment," should reference administrative record number 149; and comments on ICR No. 1188, "Significant New Use Rules for Existing Chemicals," should reference administrative record number 150.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the appropriate administrative record number and ICR Number. No CBI should be submitted through e-mail. Electronic comments on this action may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit III. of this document.

Draft copies of the ICRs addressed by this notice are available for review at, and copies may be obtained through, the public docket address and telephone number noted above.

FOR FURTHER INFORMATION CONTACT: For general information contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–554–1404, TDD: 202–554–0551, e-mail: TSCA-Hotline@epamail.epa.gov. For technical information contact: Frank Kover, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–8130.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of each ICR are available from the EPA Public Access Gopher (gopher.epa.gov) at the Environmental Sub-Set entry for this document under "Rules and Regulations."

I. Background

Entities potentially affected by this action are those that manufacture, process, import, or distribute in commerce chemical substances or mixtures.

For each of the collections of information described in Unit II. of this preamble, EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

II. Information Collections

This unit addresses three ICRs, which are identified and discussed separately below.

Title: Health and Safety Data Reporting Rule, ICR No. 575, OMB No. 2070–0004.

Abstract: Section 8(d) of the Toxic Substances Control Act (TSCA) and 40 CFR part 716 require manufacturers and processors of chemicals to submit lists and copies of health and safety studies relating to the health and/or environmental effects of certain chemical substances and mixtures. In order to comply with the reporting requirements of section 8(d), respondents must search their records to identify any health and safety studies in their possession, copy and process relevant studies, list studies that are currently in progress, and submit this information to EPA.

EPA uses this information to construct a complete picture of the known effects of the chemicals in question, leading to determinations by EPA of whether additional testing of the

chemicals is required. The information enables EPA to base its testing decisions on the most complete information available and to avoid demands for testing that may be duplicative. EPA will use information obtained via this collection to support its investigation of the risks posed by chemicals and, in particular, to support its decisions on whether to require industry to test chemicals under section 4 of TSCA.

Responses to the collection of information are mandatory (see 40 CFR part 716). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden Statement: The burden to respondents for complying with this ICR is estimated to total 8,100 hours per year at a total annual cost of $349,217. These totals are based on an average burden ranging between 12 and 26 hours per respondent, depending upon the nature of the activities covered by this collection in which respondents are engaged. The overall average burden is estimated to be 17 hours per respondent. The number of respondents range from approximately 125 to approximately 600, again depending upon the activities in which respondents are engaged. There are no recordkeeping requirements associated with this collection. These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Title: Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reaction to Human Health or the Environment, ICR No. 1031, OMB No. 2070–0017.

Abstract: TSCA section 8(c) requires companies that manufacture, process, or distribute chemicals to maintain records of significant adverse reactions to health or the environment alleged to have been caused by such chemicals. Since section 8(c) includes no automatic reporting provision, EPA can obtain and use the information contained in company files only by inspecting those files or requiring reporting of records that relate to specific substances of concern. Therefore, under certain conditions, and using the provisions found in 40 CFR part 717, EPA may require companies to report such allegations to the Agency.

EPA uses such information on a case-specific basis to corroborate suspected adverse health or environmental effects of chemicals already under review by EPA. The information is also useful to identify trends of adverse effects across the industry that may not be apparent to any one chemical company.

Responses to the collection of information are mandatory (see 40 CFR part 717). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden Statement: The burden to respondents for complying with this ICR is estimated to total approximately 33,300 hours per year, with an annual cost of $1,686,963. These totals are based on an average burden of about 3.5 hours per respondent, with a total of approximately 9,500 respondents. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Title: Significant New Use Rules for Existing Chemicals, ICR No. 1188, OMB No. 2070–0038.

Abstract: Section 5 of TSCA provides EPA with a regulatory mechanism to monitor and, if necessary, control significant new uses of chemical substances. Section 5 authorizes EPA to determine by rule (a significant new use rule (SNUR)), after considering all relevant factors, that a use of a chemical substance represents a significant new use. If EPA determines that a use of a chemical substance is a significant new use, section 5 requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

EPA uses the information obtained through this collection to evaluate the health and environmental effects of the significant new use. EPA may take regulatory actions under TSCA section 5, 6, or 7 to control the activities for which it has received a SNUR notice. These actions include orders to limit or prohibit the manufacture, importation, processing, distribution in commerce, use or disposal of chemical substances. If EPA does not take action, section 5 also requires EPA to publish a **Federal Register** notice explaining the reasons for not taking action.

Responses to the collection of information are mandatory (see 40 CFR part 721). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden Statement: The burden to respondents for complying with this ICR is estimated to total approximately 237 hours per year, with an annual cost of $17,360. These totals are based on an average burden of approximately 118 hours per response for an estimated two annual respondents, reporting once annually. This estimate includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

III. Public Docket

A record has been established for this action under docket number "OPPTS–00176" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental protection and Information collection requests.

Dated: September 25, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–24119 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5304–7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instruments.

DATES: Comments must be submitted on or before October 30, 1995.

FOR FURTHER INFORMATION OR A COPY CONTACT: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1698.

SUPPLEMENTARY INFORMATION:

Title: Reporting Requirements Under EPA's WasteWi$e Program (OMB Control No. 2050–0139; EPA ICR No. 1698). This is a request for extension of a currently approved information collection.

Abstract: EPA's voluntary WasteWi$e program encourages businesses and other organizations to reduce waste. WasteWi$e members are composed of

Partners, which commit to engage in waste reduction activities of their own choice, and Endorsers, which promote WasteWi$e and waste reduction to their members. Endorsers, which are trade associations and other membership-based associations, submit only one form, the Endorser Registration Form, which identifies the organization and principal contact, and activities which the organization commits to conduct. Partners fill out three forms as follows:

The Partner Registration Form provides EPA with general company information and identifies the facilities committed to the WasteWi$e program: it is signed by a senior official who has authority to commit the company to the program. Each partner develops its own waste reduction goals and completes and submits an annual Goals Identification Form to EPA; partners also report annually on the progress made toward achieving those goals in the Annual Reporting Form.

The information collected will be used by EPA to develop and provide targeted technical information to assist organizations' voluntary waste reduction programs, identify and promote successful waste reduction strategies, and gauge the program's progress.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB Control numbers for EPA's regulations are listed in 40 CFR Part 9. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 31, 1995 (60 FR 38997).

Burden statement: The respondent burden for this collection is estimated to average 24 hours per response for the Endorser Registration Form; 10 hours per response for the Partner Registration Form; 40 hours per response for the first year's Goals Identification Form; 20 hours per response for each subsequent year's Goals Identification Form; and 55.5 hours per response for the Annual Reporting Form; for an estimated one-time respondent burden of 24 hours for Endorsers and an annual respondent burden of 105.5 hours in the first year and 75.5 hours each subsequent year for Partners. These estimates include the time needed to review instructions, develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected entities: Businesses and non-governmental organizations that voluntarily join the WasteWi$e program.

Estimated number of respondents: 515 in year 1 (115 new members); 615 in year 2; and 715 in year 3.

Estimated Total Annual Burden on Respondents: 41,110 hours in Year 1; 48,660 in Year 2; and 56,210 in Year 3.

Frequency of Collection: One-time and annual.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the following addresses. Please refer to EPA ICR No. 1698 and OMB Control No. 2050–0139 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW. Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503

Dated: September 21, 1995.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 95–24273 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5305–9]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before (ICRs) to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before November 28, 1995.

ADDRESSES: U.S. Environmental Protection Agency, 401 M Street SW, Mail code 2223A, OECA/OC/METD, Washington, DC 20460. A copy of these ICRs may be obtained without charge from Sandy Farmer (202) 260–2740.

FOR FURTHER INFORMATION CONTACT: Keith Brown at (202) 564–7124 for NSPS subpart UUU, Calciners and Dryers in Mineral industries and NSPS

subpart LL, Metallic Mineral processing Plants; Tom Ripp at (202) 564–7003 for NSPS subpart J, Petroleum Refineries; and Maria Malave at (202 564–7027 for NSPS subpart N, Primary Emissions from Basic Oxygen Process Furnaces and NSPS subpart Na, Basic Oxygen Process Stellmaking Facilities. The fax number for all contacts is (202) 564–0050.

SUPPLEMENTARY INFORMATION:

Affected Entities: Entities potentially affected by this action are those which are subject to NSPS subpart UUU, Calciners and Dryers in Mineral Industries; NSPS subpart LL, Metallic Mineral Processing Plants; NSPS subpart J, Petroleum Refineries; NSPS subpart N, Primary Emissions from Basic Oxygen Process Furnaces; and NSPS subpart Na, Basic Oxygen Process Steelmaking Facilities.

NSPS Subpart UUU, Calciners and Dryers in Mineral Industries

Affected Entities: are those which are subject to NSPS subpart UUU, Calciners and Dryers in Mineral Industries with the exceptions listed in 40 CFR 60.730 (a) and (b).

Title: NSPS subpart UUU, Calciners and Dryers in Mineral Industries, OMB number 2060–0251, expires March 31, 1996.

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with 40 CFR Part 60.730, Subpart UUU, New Source Performance Standards for Calciners and Dryers in Mineral Industries. This information notifies the Agency when a source become subject to the regulations, and informs the Agency that the source is in compliance when it begins operation. The Agency is informed of the sources; compliance status by semiannual reports. the calibration and maintenance requirements aid in a source remaining in compliance

In the Administrator's judgement, particulate matter from calciners and dryers cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under Section 111 of the Clean Air Act.

The control of emissions of particulate matter requires not only the installation of properly designed equipment, but also the proper operation and maintenance of that equipment. These standards rely on the capture of pollutants vented to a control device.

Owners or operators of calciners and dryers subject to NSPS are required to make initial notifications for construction, startup, and performance testing. They must also report the results of a performance test, and demonstration of a continuous monitoring system if applicable. After the initial recordkeeping and reporting requirements, semiannual reports are required if there has been an exceedance of control device operating parameters.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports and records are required in general, of all sources subject to NSPS.

Forty three new facilities are estimated to become subject to NSPS subpart UUU annually. Of those facilities 23 are expected to be exempt from any monitoring requirements and will only have to comply with initial notifications and performance tests.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The current ICR estimates the cost per respondent for the first year to be $15,850. This is based on a total average annual burden of 21,636 person hours for 43 respondents with an average wage of $15 per hour and 110% overhead. The burden for future years is greatly reduced because the initial notifications and initial performance tests are not required in subsequent years. This burden can range from 0 hours to 78 hours depending on the type of calciner or dryer employed and the monitoring requirements associated with that piece of equipment. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The following is a breakdown of burden used in the ICR. Burden is calculated as two hours for respondents to write the reports for; notification of construction of reconstruction, notification of physical or operational changes, notification of anticipated startup, notification of actual startup, notification of initial performance test, notification of demonstration of COM. The ICR uses 330 burden hours for the initial performance test. It is assumed that 20% of all affected facilities will have to repeat performance tests. The ICR uses one hundred burden hours for demonstration of COM, and eighteen hours for Method 9. These are all one time only burdens. Four hours are used for semiannual recalibration of the COM.

The recordkeeping burden is estimated to be 1.5 hours to enter records of startup, shutdown, and malfunction. It is assumed this will take place four times a year, with shutdowns twice a year for maintenance and twice a year for process malfunction. Records of information required by NSPS subpart UUU are estimated to take 1.5 hours to record and will be recorded 48 times a year, assuming 48 weeks a year of operation. No additional third party burden is relevant.

NSPS Subpart LL, Metallic Mineral Processing Plants

Title: NSPS subpart LL, Metallic Mineral Processing Plants, OMB number 2060–0016, expires March 31, 1996.

Affected Entities: are listed at 40 CFR 60.380 (a), (b), and (c).

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with 40 CFR Part 60.380 Subpart LL, New Source Performance

Standards for Metallic Mineral Processing Plants. This information notifies the Agency when a source becomes subject to the regulations, and informs the Agency that the source is in compliance when it begins operation.

In the Administrator's judgment, particulate matter from the processing of metallic minerals cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under Section 111 of the Clean Air Act.

The control of emissions of particulate matter requires not only the installation of properly designed equipment, but also the proper operation and maintenance of that equipment. These standards rely on the capture of pollutants vented to a control device.

Owners or operators of Metallic Mineral Processing Plants subject to NSPS are required to make initial notifications for construction, startup, and performance testing. They must also report the results of a performance test, and demonstration of a continuous monitoring system if applicable. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports and records are required in general, of all sources subject to NSPS. NSPS subpart LL does not have any additional reporting requirements.

Any Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: At the writing of the previous ICR there were 15 sources currently subject to the standards. It is estimated that 1.4 additional sources per year will become subject to the standard. The current ICR estimates the cost per respondent to be $3,232 for the initial year. This is based on a total average annual burden of 1,911 person hours for 18 respondents with an average wage of $14.50 per hour and 110% overhead.

The following is a breakdown of burden used in the ICR. Burden is calculated as two hours for respondents to write the reports for; notification of construction or reconstruction, notification of physical or operational changes, notification of anticipated startup, notification of actual startup, notification of initial performance test, notification of demonstration of COM. Initial performance tests are allocated 330 burden hours. It is assumed that 20% of all affected facilities will have to repeat performance tests. The ICR allocates four hours for Method 9. These are all one time only burdens.

Recordkeeping is the only ongoing burden associated with this ICR. The recordkeeping burden is estimated to be 15 minutes to enter records of operating parameters. It is assumed that the plant will operate 250 days a year, therefore, this information will be recorded 250 times a year. There is no additional third party burden relevant to this ICR.

NSPS Subpart J: Standards of Performance for Petroleum Refineries

Title: NSPS subpart J: Standards of Performance for Petroleum Refineries, OMB number 2060–0022, expires March 31, 1996.

Affected Entities: Entities potentially affected by this action are fluid catalytic cracking unit catalyst regenerators, fuel gas combustion devices and all Claus sulfur recovery plants except Claus plants of 20 long tons per day or less at petroleum refineries.

Abstract: Owners or operators of the affected facilities described must make the following one-time-only reports: Notifications of the anticipated and actual date of startup, notification of the date of construction or reconstruction, notification of any physical or operational change to an existing facility which may increase the emission rate of any regulated air pollutant, notification of the date upon which demonstration of the continuous monitoring system performance commences, notification of the date of the initial performance test, and results of the performance tests.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports and records are required in general, of all sources subject to NSPS.

Recordkeeping and reporting requirements specific to refineries consist mainly of recording the average coke burn-off rate, the rate of fuel combustion, and the hours of operation on a daily basis. The owner or operator is also required to install a continuous emission monitor and record the emission levels of opacity, carbon monoxide, and sulfur dioxide or hydrogen sulfide. Owners or operators are required to report all periods of emissions in excess of the standard.

In the Administrator's judgment, particulate matter, carbon monoxide and sulfur dioxide from petroleum refineries cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, New Source Performance Standards have been promulgated for this source category as required under Section 111 of the Clean Air Act.

The control of emissions of particulate matter, carbon monoxide and sulfur dioxide from petroleum refineries requires not only the installation of properly designed equipment, but also the proper operation and maintenance of the that equipment. These standards rely on the capture of pollutants vented to a control device.

To ensure compliance with these standards, the required records and reports are necessary to enable the Administrator: (1) To identify new, modified, or reconstructed sources subject to the standard; (2) to ensure that the emission limits are being achieved; and (3) to ensure that emission reduction systems are being operated and maintained properly. In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act and in accordance with any applicable permit.

An Agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved 1992 Information Collection Request (ICR). Where appropriate, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paper Reduction Act.

The estimate was based on the assumption that there would be seven new affected facilities each year and that there was an average of 146 sources in existence for the three years covered by the ICR. For the new sources, it was estimated that it would take: seven person-hours to read the instructions, 3890 person-hours to gather the information to write the initial reports and 1285 person-hours to conduct the initial performance tests (assuming that 20% of the tests must be repeated). For all sources, it was estimated that it would take: 146 person-hours to fill out quarterly and semiannual emission reports (assuming 65% of the sources will have at least one quarter with excess emissions and that 35% of the sources will have to report semiannually.) and 12,775 person-hours to enter information for records of operating parameters (assuming a source operates 350 days per year and that it takes .25 hours per occurrence).

The average annual burden to industry over the past three year period from recordkeeping and reporting requirements had been estimated at 18,103 person-hours. The respondents costs was calculated on the basis of $14.50 per hour plus 110 percent overhead. The average annual burden to industry over the past three years was estimated to be $551,236.

This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. For the new ICR, cost estimates for the required monitoring systems will need to be included in the overall burden estimate. No additional third party burden is relevant to this ICR.

NSPS Subpart N: New Source Performance Standards (NSPS) for Basic Oxygen Process Furnaces and NSPS Subpart Na: New Source Performance Standards (NSPS) for Basic Oxygen Process Furnaces at Steelmaking Facilities.

Title: NSPS Subpart N, Na: New Source Performance Standards (NSPS) for Basic Oxygen Process Furnaces; OMB No. 2060–0029; Expiration Date—March 31, 1996.

Affected Entities: Entities potentially affected by this action are each basic oxygen process furnace (BOPF) in a steel plant (Subpart N—addresses primary emissions from BOPF), and any top-blow BOPF and hot metal transfer station or skimming station used for a bottom-blown or top-blown BOPF (Subpart Na—addresses secondary emission from BOPF).

Abstract: The EPA is charged under Section 111 of the Clean Air Act, as amended, to establish standards of performance for new stationary sources based on the best demonstrated technology (BDT). Section 111 also requires that the Administrator review, and, if appropriate revise such standards every four years. In addition, Section 114(a) states that:

* * * the Administrator may require any owner or operator subject to any requirement of this act to: (1) Establish and maintain such records, (2) make such reports, (3) install, use and maintain such monitoring equipment or methods (in accordance with such methods at such locations, at such intervals, and in such manner as the Administrator shall prescribe), (4) provide such other, information, as he may reasonably require.

New Source Performance Standards were promulgated for basic oxygen process furnaces on June 11, 1973 and amended on January 2, 1986 to include both primary emissions and secondary emissions from these sources. An opacity limit was promulgated on April 13, 1978, as a supplement to the mass standard. In the Administrator's, judgment, these standards were required to address particulate matter emissions from BOPFs in iron and steel plants which contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.

To ensure compliance with such standards adequate recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

The Standards require daily recordkeeping to document process information relating to the time and duration of each steel production cycle and any diversion of exhaust gases from the main stack servicing the BOPF, as well as, of the various rates or levels of exhaust ventilation at each phase of the cycle through each duct of the secondary emission capture system (specified in 40 CFR 60.143, and 40 CFR 60.143a). Generally, this information will be readily available because it is needed for plant records. Therefore, there is no increased burden to industry on this requirement. Information on pressure losses through the venturi constriction of the control equipment, and water supply pressure to the control equipment would be recorded continuously for facilities using venturi scrubbers, thus enabling owners and operators to demonstrate compliance with the standards. This information will be used to compare recorded pressures to those pressures measured during performance test so that comparisons can be made to their emissions thus ensuring continuous compliance with the standard. The semiannual reporting requirement (specified in 40 CFR 60.143(c) and 60.143a (d) & (e)) for monitoring results (i.e., pressure loss through the venturi constriction of the scrubber and water supply pressure to the scrubber) which average more than ten percent below performance test results provides a good indication of a source's compliance status. EPA reduced the reporting frequency for this information from quarterly to semiannually in a December 1990 Federal Register Notice. The

reduction in reporting frequency was respondent to the Office of Management and Budget's (OMB's) previous questions regarding the need for quarterly versus semiannual reporting.

The standards require initial notification reports with respect to construction, modification, reconstruction, startups, shutdowns, and malfunctions (specified in 40 CFR 60.7(a)).

Notification of construction and startup indicated to enforcement personnel when a new affected facility has been constructed and, therefore, is subject to the standard.

Under the standard, the data collected by the affected industry is retained at the facility for a minimum of two years.

As mentioned above, if the information required by the standards were not collected, the Agency would have no means for ensuring that compliance with the NSPS is achieved and maintained by new, modified, or reconstructed sources subject to the regulations. An owner or operator could elect to reduce operating expenses by not installing, maintaining, or otherwise operating the control technology required by the standards. In the absence of the information collection requirements, compliance with the standards could be ensured only through continuous on-site inspections by regulatory agency personnel. Consequently, not collecting the information would result in either greatly increased expenditures of resources, or the inability to ensure compliance with the standards.

The information collected from recordkeeping and reporting requirements is also used for targeting inspections, and is of sufficient quality to be used as evidence in court.

All reports are sent to the delegated State or local level authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office.

In addition to reviewing notifications or semiannual reports, the reviewing authority may elect to also conduct inspections. After a notification, Agency personnel may want to conduct an inspection to ensure that the equipment is properly installed and operated, as was indicated in the performance test report. Agency personnel may also conduct periodic inspections to obtain additional data, as a check for source operation and maintenance and for compliance determinations.

The data that is gathered from inspections is summarized and published for internal Agency use in compliance and enforcement programs. Information from the reports is entered into the Aerometric Information Retrieval System (AIRS) Facility Subsystem (AFS) which is operated and maintained by EPA's Office of Air Quality, Planning and Standards.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved 1992 Information Collection Request (ICR). Where it was appropriate, the Agency identified specific tasks and made assumptions, while being consistent with the concept of burden under the Paper Work Reduction Act.

The estimate for reporting and recordkeeping burden includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The estimate was based on the assumption that 14 sources were subject to the standard and that an additional 0.6 sources per year became subject to the standard over the past three years.

The average annual burden to industry over the past three year period, since the currently approved ICR, from recordkeeping and reporting requirements had been estimated at 1,547 person-hours. The respondents costs was calculated on the basis of $14.50 per hour plus 110 percent overhead. The average annual burden to industry over the past three years was estimated to be $47,112.

The following is a breakdown of burden used in the ICR. Burden is calculated as two hours for respondents to write the reports for; notification of construction or reconstruction, notification of physical or operational changes, notification of anticipated startup, notification of actual startup, notification of initial performance test, notification of demonstration of COM. Initial performance tests are allocated 72 burden hours. It is assumed that 20% of all affected facilities will have to repeat performance tests. The ICR allocates four hours for Method 9 tests and assumed there will be approximately 30. These are all one time only burdens. It is assumed that all sources use venturi scrubbers for pollution control and half of the affected facilities have reportable low pressures. Ten burden hours are assumed for the low pressure measurement report.

Recordkeeping is the only ongoing burden associated with this ICR. The recordkeeping burden is estimated to be 15 minutes to enter records of operating parameters. It is assumed that the plant will operate 365 days a year, therefore, this information will be recorded 365 times a year. There is no additional third party burden relevant to this ICR.

Dated: September 22, 1995.

Eric Schaeffer,

Acting Director, Office of Compliance Official.

FR Doc. 95–24275 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5306–5]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before November 28, 1995.

ADDRESSES: Chemical Emergency Preparedness and Prevention Office, Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460.

FOR FURTHER INFORMATION CONTACT: Vanessa Rodriguez, Chemical Emergency Preparedness and Prevention Office. (202) 260–7913.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which may petition EPA to modify, by addition or deletion, the list of regulated substances under section 112(r) of the Clean Air Act of 1990 as Amended (CAA or the Act). Any person may petition EPA to modify, by addition or deletion, the list of regulated substances. Potential petitioners are likely to include environmental groups, industries producing, using, or storing listed regulated substances, and state and local agencies.

Title: Information Requirements For Petitions to Modify The List of Regulated Substances Under Section 112(r) of the Clean Air Act, as Amended.

Abstract: This information collection addresses the requirements for submitting petitions to modify the list of regulated substances under section 112(r) of the CAA. CAA section 112(r) requires EPA to promulgate a list of at least 100 substances ("regulated substances") that are known to cause, or may be reasonably anticipated to cause, death, injury, or serious adverse effects to human health or the environment. EPA is also required to set threshold quantities for each listed substance. The list and threshold quantities will determine the need for owners and operators of facilities to comply with subsequent regulations addressing the prevention and detection of accidental releases. The act also requires the Agency to develop procedures for the addition and deletion of substances from the list. Accordingly, EPA has published a list of regulated substances and threshold quantities and also the requirements for the petition process that will be used to add or delete chemicals from the final list.

The listing rule requires the petitioner to submit information in support of a petition to modify the list of regulated substances. The petitioner must provide EPA with sufficient information to specifically support the request to add or delete a substance from the list of regulated substances. The Agency will use this information in making the decision to grant or deny a petition. The information collection addresses the burden of collecting and submitting supporting information in accordance with EPA's proposed petition process. Information will be collected on a voluntary basis, and all the information collected requesting modification of the substance listings will be stored in a docket created for that purpose.

This information collection is authorized under CAA section 112(r), 42 U.S.C. 7412(r). CAA section 112(r)(3) states, in relevant part, "The Administrator shall establish procedures for the addition and deletion of substances from the list established under this paragraph consistent with those applicable to the list in subsection (b)." The information collected during the petition process will provide the primary basis for EPA to determine if it is appropriate to add or delete the substance from the list. To be consistent with the petition process under CAA section 112(b), EPA is required to consider and respond to petitions to modify the list of regulated substances for accidental release prevention within 18 months of submission of the petition; complete data supporting the petition are necessary to allow EPA to complete its review within that time period. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: Public reporting for this collection of information in the petition process is estimated to be approximately 138 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. EPA estimates that there will be an average of 11 petitions per year. The total annual burden is estimated to be 1,518 hours, (138 hours×11 petitions). This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: September 25, 1995.

James Makris,

Director, Chemical Emergency Preparedness and Prevention Office.

[FR Doc. 95–24276 Filed 9–28–95; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS–00178; FRL–4982–2]

Request for Comments; Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that EPA is planning to submit a new Information Collection Request (ICR) to the Office of Management and Budget (OMB). This proposed ICR is for the one-time information collection activity entitled "Voluntary Dioxin Information and Data Call-In" (EPA ICR No. 1762.01). Before submitting this ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before November 28, 1995.

ADDRESSES: Submit three copies identified by administrative record number "AR–138" and EPA ICR number "1762.01" by mail to: TSCA Document Receipts (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to:

ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the administrative record number "AR–138" and ICR number "1762.01". No CBI should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit III. of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–554–1404, TDD: (202) 554–0551, e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: An electronic copy of the ICR is available from the EPA Public Access Gopher (gopher.epa.gov) at the Environmental Sub-Set entry for this document under "Rules and Regulations."

I. Background

Through a general notice in the **Federal Register** and a general press advisory, the Agency is asking industry, public interest groups, Federal, State and local governments, the medical community, academia, and the general public to submit dioxin measurement data to the Agency. No individual surveys will be sent to any specific party. The Agency has, however, developed an outreach plan which will target specific parties thought to have information as well as those who may or may not have information. These parties will receive a general notice informing them of the data call-in. These parties include: Various State and local governments; associations (medical, industrial) which will get the message out to their members; special interest groups such as environmental organizations; and academic organizations.

EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

II. Information Collection Request

EPA is seeking comments on the following new Information Collection Request (ICR).

Title: Voluntary Dioxin Information and Data Call-In (EPA ICR No. 1762.01).

Abstract: This new collection is in support of the Agency's efforts to reassess the toxicity of and exposure to dioxin. On September 13, 1994, EPA released a 2,400 page draft reassessment of the toxicity of and exposure to dioxin. One of the central issues to the reassessment regarded the levels of dioxin in the environment. EPA is interested in knowing whether the draft reassessment appropriately estimates releases and exposures from known sources. EPA believes that the first step in answering this question is to find out whether there are existing data which the Agency has somehow missed in the draft reassessment.

EPA has compared the estimated range of dioxin TEQ (toxic equivalent quotient) annually released from known combustion sources to an estimated range of dioxin TEQ that may be depositing from the atmosphere. EPA currently estimates that a range of emissions (3,300 to 26,000 g TEQ/yr) are released into the air annually. Although limited in number, deposition measurements taken in the U.S. suggest that more dioxin is depositing from the that atmosphere than is going into the atmosphere from combustion sources. (The total amount of dioxin depositing by wet and dry processes is in the range of 20,000 to 50,000 g TEQ/yr.).

While several possible explanations may account for this discrepancy, two potential explanations may be further clarified by using this call-in: (1) Inaccuracies in existing emission data may be resolved; and (2) emissions from unknown sources may be identified.

In order to determine if the Agency is properly measuring dioxin emissions, the Agency is seeking sources of release of dioxin to the environment, the levels of dioxin which are being released and the pathways of release, the levels of dioxin occurring in food and feed, the levels of dioxin measured in human tissue, mechanisms for minimizing or eliminating the further generation and/or release of dioxin to the environment, and QA/QC information associated with the data.

Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

Burden Statement: The burden for this collection of information is estimated to be 25 hours per response, which includes the time needed to review the **Federal Register** notice requesting the information, gather the data needed, review the information prior to submission, and to transmit the information to the Agency.

The Agency expects the burden time per submission to be similar to an 8(e) submission with an additional 5 hours to access QA/QC information for each submission. The Agency's burden estimate for 8(e) is approximately 20 hours per submission. Since QA/QC questions are not part of the 8(e) submission, the Agency estimates the total burden time to be 25 hours per submission.

The Agency estimates approximately 125 submissions will be submitted. At 25 hours per submission the total burden time is 3,125 burden hours. The Agency estimates that approximately 25 percent of the submissions should have been submitted under TSCA section 8(e) and will now be sent (given an enforcement discretion period allowed under this call-in). Therefore, the total burden of this call-in is 2,345 hours.

III. Public Record

A record has been established for this action under docket number "OPPTS–00178" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at: ncic@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

List of Subjects

Environmental protection and Information collection requests.

Dated: September 25, 1995.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–24286 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–M

[OPP–00417; FRL–4982–3]

Renewal of Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that three Information Collection Requests (ICR) are coming up for renewal. These ICRs are: Data Call-In for Special Review Chemicals (ICR No. 922.04), Export Policy: Foreign Purchaser Acknowledgement Statements (ICR No. 161.06), and Notice of Pesticide Registration by States to Meet a Special Local Need (ICR No. 595.05). Before submitting the renewal packages to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collections as described below.

DATES: Comments must be submitted on or before November 28, 1995.

ADDRESSES: Submit written comments identified by the docket number OPP–00417 and the appropriate ICR number by mail to: Public Response Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; In person, bring comments directly to the OPP docket which is located in Rm. 1132 of Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Copies of the complete ICR and accompanying appendices may be obtained from the OPP docket at the above address or by contacting the person whose name appears under **FOR FURTHER INFORMATION CONTACT.**

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP–00417" and the appropriate ICR number. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit III. of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

Carol Peterson, Policy and Special Projects Staff, office of Pesticide Programs, Environmental Protection Agency, Mail Code (7501 C), 401 M St., SW., Washington, DC 20460, Telephone: (703) 305–6598, e-mail: peterson.carol@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of each ICR are available from the EPA Public Access Gopher (gopher.epa.gov) at the Environmental Sub-Set entry for this document under "Rules and Regulations."

I. Information Collection Requests

EPA is seeking comments on the following Information Collection Requests (ICRs).

Title: Data Call-In for Special Review Chemicals. ICR No. 922.04. OMB No. 2070–0057. Expiration date: March 31, 1996.

Affected Entities: Parties affected by this information collection are manufacturers of pesticide chemicals.

Abstract: The Federal Insecticide, Fungicide, and Rodenticide Act as amended (FIFRA) mandates that EPA register pesticide products. Under FIFRA, EPA may require pesticide registrants to generate and submit data to the Agency where such data are needed to assess whether registration of an existing pesticide causes an unreasonable adverse effect on human health or the environment. Pesticide registrants must generate and report the required data.

The purpose of this information collection activity is for EPA's Office of Pesticide Programs (OPP) to obtain data to assess whether certain pesticides pose unreasonable adverse effects on human health or the environment, and therefore should continue to be registered. Data may consist of toxicology studies, fish and wildlife studies, environmental fate studies, chemistry studies, or other data needed to analyze the potential risks and benefits associated with pesticide chemicals. EPA gathers much of the additional information needed to reassess a chemical by requesting data from the registrant under FIFRA section 3(c)(2)(B).

No third party notification or public disclosure burden is associated with this collection.

Burden Statement: The current total annual respondent burden estimate is 58,880 hours. The current ICR estimated 8 Special Review Data Call-Ins (DCIs) and 64 respondents annually; included in the renewal the Agency predicts an average of 4 Special Review DCIs and 32 respondents annually. This revised prediction reduces the total burden estimates to 29,440 hours annually. Each respondent is required to respond only once per event. Small businesses are generally exempt from generating data on purchased registered active ingredients. Most small entities are formulators, who need only respond to a data call-in for basic data by indicating a legitimate claim for exemption. They do not incur any other information burden associated with the call-in.

Title: Export Policy: Foreign Purchaser Acknowledgement Statement of Unregistered Pesticides. ICR No. 161.06. OMB No. 2070–0027. Expiration date: March 31, 1996.

Affected Entities: Parties affected by this action are exporters of pesticides.

Abstract: Section 17 of FIFRA requires an exporter of any pesticide not registered under FIFRA to obtain a signed statement from the foreign purchaser acknowledging that the purchaser is aware that the pesticide is not registered for use in the United States and cannot be sold in the United

States. The purpose of the foreign purchaser acknowledgement statement (FPAS) requirement is to allow EPA to notify the government of the importing country that an unregistered pesticide for which no hazard assessment has been made, will be imported into that country. This information is submitted in the form of annual of per-shipment statements to EPA, which maintains original records and transmits copies thereof to appropriate government officials of the countries which are importing the pesticides.

EPA is also including in this renewal of the ICR an estimate of the burden imposed by export labeling requirements, which meet the definition of third party labeling. The labeling requirement may be met by supplemental labeling attached to either the product container or the shipping container.

Burden Statement: The burden for this information collection reflects EPA's experience implementing the 1993 pesticide export policy governing the export of pesticides, devices, and active ingredients used in producing pesticides. EPA revised the information collection estimates to reflect the actual numbers of export notifications received under the policy. This ICR renewal includes an increased burden estimate of 2,167 hours for the submission of the FPAS, which is 1,273 hours higher than in the current ICR. The 2,167 hours is based on the approximately 2,000 notices annually received pursuant to the export policy. The ICR for the export policy had a burden estimate of 1,057 hours, based upon an estimated 976 notices annually.

The previous ICR did not estimate the respondent burden of the export labeling requirement, because an estimate of third-party notification burden was not required at that time. The labeling burden for the estimated 3,600 annually exported products is estimated to be 22,050 hours.

The total estimated burden for this ICR renewal is 24,217 hours. The change in respondent burden from the current 894 hours is due to two factors: (1) EPA has revised the burden estimate for the purchaser acknowledgement requirement to reflect the numbers of FPASs submitted to EPA under the revised policy; (2) EPA has also estimated the burden imposed by the export labeling requirement, due to the new requirement in the Paperwork Reduction Act to estimate the cost of third party notifications.

Title: Notice of Pesticide Registration by States to Meet a Special Local Need (SLN) under FIFRA Section 24(c). ICR No. 595.05. OMB No. 2070–0055. Expiration date: April 30, 1996.

Affected Entities: Parties affected by this collection activity are the States which are defined to include Washington, DC, Puerto Rico, the U.S. Virgin Islands, Guam and the islands of the Pacific Territory, and American Samoa; manufacturers of pesticide chemicals; and grower groups.

Abstract: FIFRA section 24(c) authorizes the States to register additional uses of federally registered pesticides for distribution and use within the State to meet a special local need. A state-issued registration under FIFRA section 24(c) is deemed a federal registration,for the purposes of the pesticide's use within the State's boundaries. A State must notify EPA, in writing, of any action it takes, i.e., issues, amends, or revokes, a state-registration. The Agency has 90 days to disapprove the registration. In such cases, the State is responsible for notifying the affected registrant. EPA requires this information to ensure that the States do not issue any registration that might conflict with other requirements in FIFRA, or with the Federal Food, Drug, and Cosmetic Act which require that tolerance exist for any pesticide used on a food or feed commodity. The States are required by federal regulation to collect from the manufacturer, or grower group, adequate information to support the section 24(c) application for registration or amendment. Both the State and the manufacturer or grower group are required to keep records for as long as the registration is active. In this case, the manufacturer, or grower group, represents a third party. The information collected from the third party is required to obtain a benefit, while that collected from the States by EPA is mandatory.

Burden Statement: The overall respondent burden hours associated with this collection has increased from the current ICR estimate of 1,375 hours to 38,775 hours per year. This change is the result of new requirements imposed to include third party notification and recordkeeping estimates in the tally. The respondents include both the State governments and the company, or grower group, filing for a state registration. The number of applications made by the States since the last ICR has not changed, and no changes have been made in the requirements for section 24(c) applications. Costs have increased due to more realistic labor rates supplied by the Bureau of Labor Statistics, which reflect more accurately the costs borne by the registrants and State government personnel who submit 24(c) applications.

The annual respondent burden for this program is estimated to average 70.5 hours per response, including time for: Compiling the information/data submitted by the registrant, reviewing the information for special local needs determination, completing paperwork to notify the federal government, storing/filing/maintaining the data, and responding back to the registrant if the registration is disapproved by EPA. In addition, the burden includes that incurred by the applicant (third party) for data gathering, reporting and recordkeeping purposes.

Any Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are contained in 40 CFR part 9.

II. Request for Comments

EPA solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the agency's estimates of the burden of the proposed collection of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies of other forms of information technology, e.g., permitting electronic submission of responses.

III. Public Docket

A record has been established for this action under docket number "OPP–00417" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Pubic Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to epa at: opp-Docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

List of Subjects

Environmental protection and Information collection requests.

Dated: September 25, 1995.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–24287 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–M

[OPP–00416; FRL–4981–3]

Establishment of the Pesticide Program Dialogue Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act, this notice announces the establishment of a Pesticide Program Dialogue Committee. This Committee is being established to provide a forum for a diverse group of individuals to provide advice and assistance to EPA's Office of Pesticide Programs (OPP) regarding pesticide regulatory development and reform initiatives, evolving public policy and program implementation issues, and science issues associated with evaluating and reducing risks from use of pesticides. The Agency has determined that this is in the public interest and will assist the Agency in performing its duties as prescribed in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Copies of the Committee Charter will be filed with the appropriate committees of Congress and the Library of Congress. The Committee's first meeting will be scheduled in the Fall of 1995 and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Persons needing further information or seeking to obtain a copy of the Committee Charter should contact: Margie Fehrenbach, Office of Pesticide Programs, Environmental Protection Agency, Mail Code 7501C, 401 M St., SW., Washington, DC 20460, Telephone: (703) 305–7090, e-mail: fehrenbach.margie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA's Office of Pesticide Programs (OPP) is entrusted with the responsibility of ensuring the safety of the American food supply; the protection from unreasonable risk or exposure of those who apply pesticides, or are exposed to pesticides occupationally or through use of products; and, general protection of the environment and special ecosystems from potential risks posed by pesticides. OPP must also make sure that pesticides are regulated fairly and help ensure that effective measures for controlling pests are available through careful balancing of pesticide risks and benefits.

Pesticides are used in a remarkably diverse array of products, including insect repellents, agricultural weed killers, household disinfectants, swimming pool chemicals, to name a few. They are likely to be found or used in nearly every home and business in the United States, where over one billion pounds of pesticide chemicals are used each year. Thus, public concern over potential risks to human health and the environment from pesticides is significant.

While several mechanisms are in place to try to involve the public in pesticide decisionmaking activities, the Pesticide Program Dialogue Committee will bring together a broad cross-section of knowledgeable individuals from organizations representing divergent views to discuss pesticide regulatory, policy and implementation issues. EPA proposed the establishment of a dialogue committee to foster the exchange of ideas and information so that feasible regulatory and policy changes could be developed. Dialogue with outside groups is essential if OPP is to be responsive to the needs of the affected public and industry organizations.

The creation of a Pesticide Program Dialogue Committee under the Federal Advisory Committee Act (FACA) will provide the structured environment for meaningful information exchanges and consensus building discussions.

II. Participants

The Group will have approximately 20 members. OPP will carefully monitor membership to ensure that there is a balanced representation from industry/trade associations; pesticide user and commodity groups; consumer and environmental/public interest groups; and others.

EPA anticipates that the committee will contain the following types of representatives: environmental/public interest groups, chemical industry/trade associations, commodity and user groups, State and Regional representatives, other Federal agencies, the public health community, congressional committees, academia, and the general public.

List of Subjects

Environmental protection.

Dated: September 25, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95–24288 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–140236; FRL–4980–4]

Access to Confidential Business Information by Armstrong Data Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Armstrong Data Services (ADS) of Vienna, Virginia, for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under contract number 68–W5–0024, contractor ADS, of 2070 Chain Bridge Rd., Suite 150, Vienna, VA, 22182 will assist the Office of Pollution Prevention and Toxics (OPPT) in managing and operating the TSCA Confidential and Nonconfidential Business Information

Centers. In accordance with 40 CFR 2.306(j), EPA has determined that under this contract, ADS will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. ADS personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters only.

Clearance for access to TSCA CBI under this contract may continue until September 30, 2000.

ADS personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: September 21, 1995.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 95–24114 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–140235; FRL–4978–7]

Access to Confidential Business Information ICF, Incorporated

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, ICF, Inc. (ICF) of Washington, DC and Fairfax, Virginia for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI). In a letter dated May 22, 1995, ICF requested that EPA approve a second location for storage of TSCA CBI.

DATES: Storage of the confidential data at the second site will occur no sooner than October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (7408) Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In a previous notice published in the **Federal Register** of November 3, 1992, (57 FR 49706), ICF was authorized under EPA contract 68–D2–0064 for access to CBI submitted to EPA under all sections of TSCA. ICF is currently authorized access to TSCA CBI at its facility located at 9300 Lee Highway, Fairfax, VA. EPA is issuing this notice to inform all submitters of information under all sections of TSCA that in a letter dated May 22, 1995, ICF requested that EPA approve a second TSCA CBI storage site, located at 1850 K Street, NW, Suite 1000, Washington, DC. EPA has inspected the facility and ensured that it is in compliance with the manual. Upon completing review of CBI materials, ICF will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract is authorized until September 30, 1996.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: September 21, 1995.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 95–24115 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–F

[ER–FRL–5229–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 11, 1995 Through September 15, 1995 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 1995 (60 FR 19047).

Draft EISs

ERP No. D–AFS–J61096–CO Rating EC1, Steamboat Ski Area Expansion, Implementation, Medicine Bow-Routt National Forest, Mt. Weiner, Special-Use-Permit and COE Section 404 Permit, Routt County, CO.

Summary: EPA expressed environmental concerns over the scope of wetlands analysis and wetlands impacts in the draft EIS. Information in the draft EIS was not adequate to identify potential wetland impacts, or to assess the wetland resources.

ERP No. D–AFS–J65241–MT Rating EC2, Skyline Ridge Project Area Timber Salvage and Associated Activities, Plan of Approval and Implementation, Kootenai National Forest, Three Rivers Ranger District, Lincoln County, MT.

Summary: EPA expressed environmental concerns about potential adverse water quality and channel stability effects to 5 creeks in the watershed. EPA also believes additional information is needed to fully assess and mitigate all potential environmental impacts of the actions.

ERP No. D–AFS–L67034–WA Rating EO2, Crown Jewel Mine and Mill Project, Construction and Operation, Gold and Silver Mining and Milling Project, Plan of Operations Approval, Special-UsePermits and COE Section 404 Permit, Chesaw, Okanogan County, WA.

Summary: EPA had environmental objections regarding water quality, hydrologic alteration, NPDES permitting, reclamation and wetland and stream mitigation.

ERP No. D–FHW–K40211–HI Rating LO, Kealakehe Parkway Completion, Queen Kaahumanu Highway and Honokohau Harbor Road Intersection to near the Mamalahoa Highway and Old Mamalahoa Highway Intersection, North Korna District, Hawaii County, HI.

Summary: EPA expressed a lack of objection to the project as proposed.

ERP No. D–NCP–D61040–DC Rating LO, Washington, DC. New Sports and Entertainment Arena, Construction and Operation, Modern Multi-Purpose Arena, Eight potential Sites, Washington, DC.

Summary: EPA believed that this project will have minimal adverse impacts to the environment and therefore has no objection to the project.

ERP No. DS–BLM–G01010–NM Rating LO, Fence Lake Federal Coal Project, Updated Information for Approval or Disapproval of Salt River Project Agricultural Improvement and Power District (SRP), Lease Approval, Mining Plan Permit Application, Catron and Cibola Cos., NM and Apache County, AZ.

Summary: EPA expressed a lack of objection for the proposed actions.

Final EISs

ERP No. F–AFS–G65058–NM, Diamond Bar Allotment Management Plan, Implementation, Gila National

Forest, Mimbres Ranger District, Sierra, Catron and Grant Counties, NM.

Summary: EPA expressed a lack of objection to the proposed action.

ERP No. F–AFS–J65149–MT, Big Mountain Ski and Summer Resort Expansion Project, Special-Use-Permit, Flathead National Forest, Tally Lake and Glacier View Ranger Districts, Whitefish, Flathead County, MT.

Summary: EPA expressed environmental concerns regarding Forest Service's consistency on air quality conformity determinations for ski area expansions near nonattainment areas. EPA believes that new growth in minor source emissions for this expansion will consume PSD increment in Class I and II areas.

ERP No. F–AFS–J65211–CO, Illinois Creek Timber Sale, Timber Harvesting, Implementation, Amended Land and Resource Management Plan, Grand Mesa, Uncompahgre and Gunnison National Forests, Taylor River/Cebolla Ranger District, Gunnison County, CO.

Summary: EPA expressed environmental concerns about incomplete wetland identification, nutrient loading and compliance with section 404 of the CWA.

ERP No. F–AFS–J65227–MT, Wagner-Atlanta Vegetation Treatment Project, Implementation, Helena National Forest, Townsend Ranger District, Meagher County, MT.

Summary: EPA expressed a lack of objection with the selection of Alternative E.

ERP No. F–AFS–K28017–CA, Running Springs Water District Wastewater Treatment Facilities Upgrading and Reclamation for Irrigation and Snow-Making at the Snow Valley Ski Resort, Approval, San Bernardino National Forest, San Bernardino County, CA.

Summary: Review of the final EIS was not deemed necessary. No formal comment letter was sent to preparing agency.

ERP No. F–FHW–D40271–PA, US 219 Transportation Project, Improvement from I–68 to Somerset and US 219 to Meyersdale, Funding, Somerset County, PA.

Summary: EPA has determined that all outstanding issues have been addressed. EPA had no objections to the issuance of the Record of Decision provided that the proposed mitigation measures described in the final EIS be identified and implemented.

ERP No. F–GSA–C80014–NY, U.S. Plaza at Rainbow Bridge Renovation Project, Leasing of Space for Use by the U.S. Immigration and Naturalization Service and the U.S. Customs Service, Niagara County, NY.

Summary: EPA had no objection to the proposed project.

Regulations

ERP No. R–FEM–A99204–00, 44 CFR Part 10 (RIN–3067–AC41)—Environmental Considerations/ Categorical Exclusions: Proposed Rule.

Summary: EPA recommended that some of the proposed categorical exclusions to environmental review under the National Environmental Policy Act (NEPA) be narrowed, and that the proposed regulation be made consistent with the Stafford Act.

Dated: September 26, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–24277 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–U

[ER-FRL–5229–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075.

Weekly receipt of Environmental Impact Statements Filed September 18, 1995 Through September 22, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950432, Draft EIS, BLM, TX, Texas Land and Resource Management Plan (RMP), Implementation, Split Estates Federal Mineral Ownership (FMO), Several Counties, TX, Due: January 06, 1996, Contact: Paul Tanner (405) 794–9624.

EIS No. 950433, Draft EIS, FHW, NH, NH–111 in the Towns of Windham and Salem Transportation Improvements, Funding, NPDES and COE Section 404 Permits, NH, Due: November 30, 1995, Contact: William F. O'Donnell (603) 225–1608.

EIS No. 950434, Draft EIS, JUS, NY, New York Federal Detention Center, Construction and Operation, Possible Site Selection, Alboin Site and Batavia Site, NY, Due: November 13, 1995, Contact: John W. Clarke (802) 660–1154.

EIS No. 950435, Final EIS, AFS, ID, Fall Creek Post-Fire Project, Harvesting Fire-Killed and Damage Trees, Implementation, McCall Ranger District, Payette National Forest, Valley County, ID, Due: October 30, 1995, Contact: Cindy Tenick (208) 634–0400.

EIS No. 950436, Draft EIS, NPS, NM, Pecos National Historical General Management Plan and Development Concept Plan, Implementation, San Miguel and Santa Fe Counties, NM, Due: November 29, 1995, Contact: Linda L. Stoll (505) 757–6414.

EIS No. 950437, Final EIS, BLM, NV, Bald Mountain Gold Mine Expansion Project, within the Horseshoe/Galaxy Mine, Plan of Operation Approval and COE Section 404 Permit, White Pine and Elko Counties, NV, Due: October 30, 1995, Contact: Dan Netcher (702) 289–1872.

EIS No. 950438, Draft EIS, FTA, CO, Southwest Corridor Light Rail Transit Project, Construction from Mineral Avenue in the City of Littleton to I–25/Broadway, Colorado Metropolitan Area, Central Business District, Arapahoe, Denver and Jefferson Counties, CO, Due: November 13, 1995, Contact: Don Cover (303) 844–3242.

EIS No. 950439, Final EIS, NPS, IN, Gary Marina Development, Approval, Indiana Dunes National Lakeshore, City of Gary, Lake County, IN, Due: October 30, 1995, Contact: Dale Engquist (219) 926–7561.

EIS No. 950440, Final EIS, DOA, AS, Aua Watershed Plan, Flood Prevention and Watershed Protection, Funding, COE Section 404 Permit and Right-of-Way Grant, Tutuila Island, Ma'oputasi County, AS, Due: October 30, 1995, Contact: Joan B. Perry (671) 472–7490.

EIS No. 950441, Final EIS, AFS, MT, Bass Lake Dam Reconstruction, Operation and Maintenance, Temporary-Use-Permit, Bitterroot National Forest, Stevensville Ranger District, Ravalli County, MT, Due: October 30, 1995, Contact: David J. Silvieus (406) 777–5461.

Amended Notices

EIS No. 950315, Draft EIS, EPA, NJ, Hackensack Meadows District (HMD) Special Area Management Plan (SAMP), Development and Implementation, COE Section 10 and 404 Permit Issuance, NJ, Due: October 20, 1995, Contact: Roberta W. Hargrove (212) 637–3495. Published FR 07–21–95—Review period extended.

EIS No. 950382, Draft EIS, AFS, MT, Castle Mountains Allotment Management Plan, Implementation, Lewis and Clark National Forest, Musselshell and King Hill Ranger Districts, White Sulphur Springs, Meagher County, MT, Due: November 30, 1995, Contact: Dave Wanderaas (406) 566–2292. Published FR 08–18–95—Review period extended.

Dated: September 26, 1995

William D. Dickerson,

Director, NEPA Compliance Division Office of Federal Activities

[FR Doc. 95–24278 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–U

[OPP–170004; FRL–4978–9]

Reinventing EPA's Pesticide Export Notification Program; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: EPA is announcing the availability for comment, a paper discussing options for reinventing the export notification procedures in the pesticide export policy.

DATES: Written comments may be submitted to EPA by November 28, 1995.

ADDRESSES: Written comments may be submitted By mail, to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, deliver comments to Room 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPP-170004. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice of availability may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: Deborah Hartman, Office of Pesticide Programs, (7501C), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 U.S.A.; telephone (703) 305-7100; e-mail: hartman.deborah@epamail.epa.gov

SUPPLEMENTARY INFORMATION: EPA is making available for comment an options paper on pesticide export notification issues. EPA is considering modifications to it export notification policy. EPA believes that certain modifications are necessary because (1) EPA's current policy has resulted in too many export notices on pesticides which may be of little or no concern to other governments; (2) the increasing numbers of export notices undermines the effectiveness of the international Prior Informed Consent (PIC) procedures, an international information exchange and chemical management program developed by the Food and Agriculture Organization and the United Nations Environment Programme (UNEP); (3) the costs of implementing the existing program on the U.S. government, other governments, and industry, should be reduced.

A record has been established for this notice of availability under docket number OPP–170004 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4: 30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice of availability, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Dated: September 20, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95–24116 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–F

[PF–634; FRL–4972–2]

W.R. Grace & Co.; Notice of Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from the W.R. Grace & Co. a petition to establish an exemption from the requirement of a tolerance for the use of NeemGard (clarified hydrophobic extract of neem oil) on all greenhouse and terrestrial food crops when used according to good agricultural practice.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA. Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF-634]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Paul Zubkoff, Biopesticides and Pollution Prevention Division (7501W),

Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 5th Floor, CS #1, 2800 Jefferson Davis Hwy., Arlington, VA, (703)-308-8694; e-mail: zubkoff.paul@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice announces that EPA has received from W.R. Grace & Co., 7379 Route 32, Columbia, MD 21044, a notice of filing under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for pesticide petition (PP) 5F4467 to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the use of NeemGard (active ingredient is clarified hydrophobic extract of neem oil) on all greenhouse and terrestrial food crops when used according to good agricultural practice.

A record has been established for this rulemaking under docket number [PF-634] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements

Authority: 21 U.S.C. 346a and 348.

Dated: September 20, 1995.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 95–24113 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5307–1]

Notice of Proposed Administrative Settlement; FMC-Fresno Site

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA), notice is hereby given of the proposed administrative cost recovery settlement entered into by EPA Region IX and the Respondent, FMC Corporation. The proposed settlement was entered into under the authority granted to EPA in Section 122(h) of CERCLA and provides that Respondent will reimburse EPA approximately $178,188 for costs incurred at, or in connection with, response actions conducted at the FMC-Fresno Site, located in Fresno, California, through the effective date of the settlement.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate that the proposed settlement is inappropriate, improper or inadequate. The Agency's response to any comments received will be available for inspection at the U.S. Environmental Protection Agency, Region IX (RC–1), 75 Hawthorne Street, San Francisco, California, 94105, Attention: Steven Armsey, Regional Hearing Clerk.

ADDRESSES: A copy of the proposed settlement may be obtained from Steven Armsey, U.S. EPA Region IX Hearing Clerk (RC–1), 75 Hawthorne Street, San Francisco, California, 94105. Comments should reference the FMC-Fresno Site and EPA Docket No. 95–12.

FOR FURTHER INFORMATION CONTACT: Gavin McCabe, Office of Regional Counsel (RC–3–4), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. Telephone: (415) 744–1334.

Dated: September 21, 1995.

Nancy Lindsay,

Acting Director, Hazardous Waste Management Division.

[FR Doc. 95–24272 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–95–07]

Auction Notice and Filing Requirements for 1,020 MTA Licenses for Specialized Mobile Radio Service in the 900 MHz Band, Scheduled for November 28, 1995

AGENCY: Federal Communications Commission.

ACTION: Public notice.

SUMMARY: This Public Notice, released September 15, 1995, announced the auction and filing requirements for the 1,020 MTA licenses for the Specialized Mobile Radio Service in the 900 MHz band, scheduled to begin November 28, 1995. This Public Notice is directed toward the Commission's goal of efficiently distributing the unused SMR spectrum through competitive bidding, and is designed to assist prospective bidders in preparing for the upcoming 900 MHz SMR auction.

FOR FURTHER INFORMATION CONTACT: The FCC auction contractor, Tradewinds International, Inc., at (202),637–FCC1 (637–3221)

The complete text of the Public Notice dated September 15, 1995 follows. Copies of this item is available for public inspection in Room 207, 2033 M Street, N.W., Washington, D.C. and may also be obtained from the FCC copy contractor, ITS, Inc. at (202) 418–0620, and the FCC auction contractor, Tradewinds International, Inc. at (202) 637–FCC1.

Report No. AUC–95–07, Auction No. 7

Auction Date: Tuesday, November 28, 1995. The precise schedule for bidding in the first week of the auction will be announced by Public Notice prior to the start of the auction. Unless otherwise announced, bidding will be conducted on each business day, until bidding has stopped on all MTA licenses.

Auction Methodology: Simultaneous multiple round bidding. Bidding in this auction will only be permitted from remote locations, either electronically (by computer) or telephonically.

Licenses to be Auctioned: 1,020 licenses to provide Specialized Mobile Radio Services ("SMR") in the 900 MHz band. These licenses will authorize

service on 20 ten-channel blocks totaling 5 MHz of spectrum over 51 major trading areas ("MTAs") in the continental United States, as well as in Puerto Rico, Hawaii, Alaska, Guam, and American Samoa. See Attachment C for a summary of the licenses to be auctioned.

Pre-Auction Performance Deadlines:

- Short Form Application (FCC Form 175)—5:30 p.m., ET, Thursday, Oct. 26, 1995.
- Upfront Payments:

—Wire Transfer—3:00 p.m., ET, Monday, Nov. 13, 1995

—Cashier's Check—11:59 p.m., ET, Monday, Nov. 13, 1995

Telephone Contacts:

- Bidder Information Packages—(202) 637–FCC1.
- Auction Hotline—(202) 418–1400.
- FCC Technical Support Hotline—(202) 414–1260.

I. Introduction

Those wishing to participate in the 900 MHz SMR auction must submit a "short-form" application on FCC Form 175 in accordance with the Commission's rules and instructions in this Public Notice and in the Bidder Information Package. The FCC Form 175 must be received no later than 5:30 p.m. Eastern Time on Thursday, October 26, 1995, and must be received either electronically or manually pursuant to the instructions set forth in the Bidder Information Package and this Public Notice. Applicants should note that the previous version of the FCC Form 175 is no longer valid. A new FCC Form 175 (revised 9/95) will be included in the Bidder Information Package. Furthermore, the FCC Form 175-M which was used in the MDS auction will *not* be accepted for the 900 MHz SMR auction.

In each of the 51 MTAs, 20 ten-channel block licenses will be offered for bid. Prospective bidders should note that in some areas, 900 MHz SMR channels are already being used by incumbent SMR licenses. Incumbent licenses were originally granted in 1986 in 46 "Designated Filing Areas" ("DFAs"), comprised of the top 50 urban markets, and many incumbents have since expanded their systems beyond the DFAs. Incumbent systems are entitled to protection from co-channel interference by any new entrant who obtains a 900 MHz SMR license designated by an MTA ("MTA license"). We therefore caution prospective bidders in formulating their bidding strategies to investigate and consider the extent to which 900 MHz SMR channel blocks are occupied by incumbents. Any discussions between prospective bidders and incumbent licensees must conclude by the FCC Form 175s deadline in order to comply with the Commission's anti-collusion rules. Such rules prohibit communications after the FCC Form 175 deadline among applicants for the same geographic markets when such communications concern bids, bidding strategies or settlements. See 47 C.F.R. 1.2105(c),(d). Attachment A lists each incumbent licensee who holds a DFA license, the licensee's call sign, and the relevant frequency block. Attachment B lists the address, phone number, and point of contact for each incumbent. Attachment C lists the 51 MTAs, upfront payments, and "activity units" (See infra, Section II.B) for each frequency block within the MTAs.

The licensing database, which includes information regarding incumbent licensees in the 900 MHz SMR band, is available for on-line review in the Public Reference Room of the Wireless Telecommunications Licensing Division, Gettysburg, PA. The Licensing Division office is located at: 1270 Fairfield Road, Gettysburg, PA 17325, Telephone: (800) 322–1117, (717) 337–1212.

The FCC does not duplicate these records, but has contracted with International Transcription Service, Inc. to provide this service. Requests for hard copies of these records should be addressed to: International Transcription Services, Inc. (ITS, Inc.), 2100 M Street NW., Suite 140, Washington, D.C. 20037, Telephone: (717) 337–1433 (Gettysburg, PA), (202) 857–3800 (Washington, DC).

Persons who would like to obtain this information in the form of microfiche or magnetic tape, or who want to obtain information concerning those types of media should write or call: National Technical Information Service (NTIS), Department of Commerce, Springfield, VA 22161, (703) 487–4650.

Persons who would like to obtain this information through an on-line public access database should call or write: Interactive Systems, Inc., 1601 North Kent St., Suite 1103, Arlington, VA 22209, Main Number: (703) 812–8270, Fax Number: (703) 812–8275, Customer Service Number: (703) 812–8270.

The precise schedule for bidding in the first week of the auction will be announced by Public Notice prior to the start of the auction. Unless otherwise announced, bidding will be conducted on each business day, until bidding has stopped on all MTA licenses. Bidding in this auction will only be permitted from remote locations, either electronically (by computer) or telephonically.

Those wishing to participate in the auction must submit a "short-form" application on FCC Form 175 in accordance with the Commission's rules and instructions in this Public Notice and in the Bidder Information Package. The FCC Form 175 must be received no later than 5:30 p.m. Eastern Time on Thursday, October 26, 1995, and must be received either electronically or manually pursuant to the instructions set forth in the Bidder Information Package. Applicants for the 900 MHz SMR auction are encouraged to file their FCC Form 175 electronically. Applicants should also be aware that only those applicants who file applications electronically will be permitted to bid electronically. Applicants who file their applications manually will only be permitted to bid telephonically. Limited instructions regarding electronic filing are contained in this Public Notice. More detailed instructions on electronic filing will be contained in the Bidder Information Package. Applicants whose FCC Form 175s have been accepted for filing will be required to submit an upfront payment (in U.S. dollars) to be eligible to participate in the auction. The upfront payment must be made by wire transfer or cashier's check payable to the "Federal Communications Commission" or "FCC" and must be received on or before Monday, November 13, 1995, at the Mellon Bank in Pittsburgh, Pennsylvania. No other form of payment will be accepted. *See infra*, Section II.B.

A. Bidder Information Package

Prospective bidders who have already contacted the FCC Auction Hotline expressing an interest in 900 MHz SMR will receive the Bidder Information Package for the 900 MHz SMR auction approximately ten to fifteen business days from the issuance of this Public Notice. Other prospective applicants may obtain the Bidder Information Package for the 900 MHz SMR auction by contacting Tradewinds International, Inc., at (202) 637–FCC1 (637–3221).

Although all prospective applicants who request a Bidder Information Package will receive their first copy of this package for free, additional copies will be provided at a cost of $16.00 per package (including postage). Payment for additional Bidder Information Packages may be made by Visa/Master Card or check made payable to the "Federal Communications Commission" or "FCC" and mailed to: Tradewinds International, Inc., GAT Washington National Airport, Suite 215, Washington, D.C. 20001, Telephone: (202) 637–FCC1 (637–3221), FAX: (703) 341–0692.

The Bidder Information Package will include the following information:

1. A list of MTA licenses to be offered simultaneously;

2. Detailed procedures, terms and conditions of the auction;

3. Detailed instructions regarding the completion and filing of the FCC Form 175, including instructions on electronic filing and remote access of FCC Form 175 applications filed with the Commission;

4. Electronic and telephonic bidding procedures;

5. All applications/forms needed to participate in the FCC Auction:

(a) A short-form application to participate in the auction (FCC Form 175) for bidders who intend to file manually. Additionally, a supplemental form (FCC Form 175–S) will be included for those who wish to apply for more frequency blocks than the FCC Form 175 allows;

(b) An FCC Remittance Advice Form (FCC Form 159) to be submitted by each bidder with its upfront payment, and by each bidder with its down payment, final payment and installment payments, if applicable (as described below), including instructions on filling out the form and samples of completed FCC Form 159s;

(c) A registration form to participate in the FCC's Auction Seminar to be held at the FCC's auction facility in Washington, D.C. on Thursday, November 9, 1995. This program is only for FCC Form 175 applicants;

(d) An order form for the purchase of remote electronic bidding software;

6. Wire transfer instructions;

7. A partial bibliography of auction-specific FCC rules and regulations;

8. The Second Order on Reconsideration and Seventh Report and Order in PR Docket No. 89–553, PP Docket No. 93–253 and GN Docket No. 93–252, FCC 95–395 (released September 14, 1995) ("Seventh Report and Order"), which adopted the 900 MHz SMR application process and competitive bidding procedures. This Seventh Report and Order contains the amended Part 90 service and competitive bidding rules pertaining to 900 MHz SMR;

9. Other general auction information.

B. Relevant Authority

Prospective bidders must familiarize themselves thoroughly with the procedures, terms and conditions (collectively, "Terms") contained in the First Report and Order and Further Notice of Proposed Rule Making in PR Docket No. 89–533, 8 FCC Rcd 1469 (1993), 58 Fed. Reg. 12,176 (Mar. 3, 1993) ("First Report & Order") the Third Report and Order in GN Docket No. 93–252, 9 FCC Rcd 7988 (1994), 59 FR. 59,945 (Nov. 21, 1994) ("CMRS Third Report & Order"); the Second Report and Order and Second Further Notice of Proposed Rule Making in PR Docket No. 89–553, GN Docket No. 93–252, PP Docket No. 93–253, FCC 95–159, released April 17, 1995, 60 FR 21,987 (May 4, 1995); and the Second Order on Reconsideration and Seventh Report and Order in PR Docket No. 89–553, PP Docket No. 93–253 and GN Docket No. 93–252, FCC 95–395 (released September 14, 1995) ("Seventh Report and Order"). The rules contained in the Relevant Orders, this Public Notice, and the Terms in the Bidder Information Package are not negotiable. Prospective bidders should review these auction documents thoroughly prior to the auction to make certain that they understand all of the provisions and are willing to be bound by all of the Terms before participating in the auction.

The information contained in this Public Notice and in the Bidder Information Package may be amended or supplemented by the Commission or the Wireless Telecommunications Bureau at any time. The Wireless Telecommunications Bureau will issue Public Notices to convey the new or supplemental information to prospective bidders. It is the responsibility of all prospective bidders to remain current with all FCC rules and with all Public Notices pertaining to this auction. Copies of FCC documents, including Public Notices, may be obtained for a fee by calling International Transcription Service, Inc. at (202) 857–3800. Additionally, prospective bidders may retrieve some of these documents from the FCC Internet node via anonymous FTP @ fcc.gov.

II. Bidder Eligibility

In order to be eligible to bid in the 900 MHz SMR auction, bidders must (i) satisfy the Commission's eligibility requirements: (ii) submit a short-form application on revised FCC Form 175 (and FCC Form 175–S if necessary); and (iii) remit an upfront payment in compliance with applicable FCC rules and regulations. Both incumbents and new entrants may bid for all MTA licenses subject only to the 45 MHz aggregate spectrum cap on Commercial Mobile Radio Services ("CMRS") uses within the broadband PCS, cellular, and SMR services. *See* 47 C.F.R. 20.6. All prospective applicants should carefully review each of the rules contained in Subparts A, H, S and U of Part 90 of the Commission's rules, as amended by the Seventh Report and Order.

Bidders that qualify as small businesses are eligible for reduced down payments, bidding credits (a discount on the winning bid price), and two possible installment payment plans (which allow eligible bidders to pay the net amount of their winning bids in quarterly installments and depend upon financial status). There are two categories of small businesses: (1) Entities that, together with affiliates, have average gross revenues that are not more than $3 million for the preceding three years; and (2) entities that, together with affiliates, have average gross revenues that are not more than $15 million for the preceding three years. *See* 47 C.F.R. 90.810, 90.811, 90.812 and 90.814 for eligibility criteria and other terms pertaining to reduced down payments, bidding credits and installment payments. These special measures available to small businesses in the 900 MHz SMR auction are also discussed in the Bidder Information Package.

Winning bidders claiming eligibility as small businesses should note that they will be required to compute their aggregate gross revenues over the relevant time period to establish that they qualify as small businesses. See 47 C.F.R. 90.815. Winning bidders claiming eligibility as small businesses may be subject to audits by the Commission to confirm bidder eligibility. *See* 47 C.F.R. 90.815(d).

Bidders that qualify as rural telephone companies ("rural telcos") will be permitted to acquire partitioned MTA licenses by either: (1) Forming bidding consortia and then partitioning the license among consortia participants; or (2) acquiring a partitioned license through private negotiations or agreements. A rural telco is defined as a local exchange carrier having 100,000 or fewer access lines, including all affiliates. Partitioned areas must conform to established geopolitical boundaries, such as county lines, and each area must include all portions of the wireline service area of the rural telco applicant that lies within the MTA service area. The partitioned area must be reasonably related to the rural telco's wireline service area that lies within the MTA service area. We will presume as "reasonably related" a partitioned area that contains no more than twice the population of that portion of a rural telco's wireline service area that lies within the MTA service area. See Seventh Report and Order at ¶¶ 178–179.

A. Short-Form Application (FCC Form 175)

In order to be eligible to bid, applicants must submit a revised FCC Form 175 application to the Commission. This application must be received by the FCC no later than 5:30 p.m. Eastern Time on Thursday, October 26, 1995. Late applications will not be accepted. Applications may be submitted electronically, by hand delivery, by certified U.S. mail (return receipt requested) or by private courier. Applicants should consult the detailed application procedures provided in the Bidder Information Package before submitting their FCC Form 175.

1. Completion of FCC Form 175

Because of the significance of the FCC Form 175 application to the auction, it is important to take note of the following requirements. Applicants will be required to complete all the items on the FCC Form 175. The previous version of the FCC Form 175 is no longer valid. A new FCC Form 175 (revised 9/95) will be included in the Bidder Information Package. Furthermore, the FCC Form 175–M which was used in the MDS auction will *not* be accepted for the 900 MHz SMR auction. Applicants should carefully review §§ 1.2105(a)(2), 90.806, and 90.815 of the Commission's Rules prior to completing FCC Form 175. In completing an FCC Form 175, applicants should note the following:

a. Applicants should apply for all MTA licenses for which they seek bidding eligibility. Bids will not be accepted for licenses for which an applicant has not applied on its FCC Form 175.

b. For "Auction Number" applicants filing manually should enter "7".

c. Applicants will be required to create a ten-digit FCC Account Number, which the Commission will use to identify and track applications. Applicants must create this FCC Account Number by using their taxpayer identification number (TIN) with a prefix of "0" (*e.g.*, 0123456789). If, and only if, an applicant does not have a taxpayer identification number, the applicant may use its ten-digit area code and telephone number (*e.g.*, 5552345678). Each applicant must use this same number when submitting additional information or material regarding its application, including on its FCC Form 159 (FCC Remittance Advice) accompanying any required auction deposits or payments submitted to the Commission. This number also must be used whenever an applicant writes, calls, or otherwise inquires about its application. Qualified bidders will need this number to participate in the auction.

d. Applicants must indicate on their FCC Form 175, if applicable, their status as a rural telephone company, minority-owned business, women-owned business and/or small business. *See* 47 C.F.R. 1.2110(b), 90.814. Applicants claiming status as a small business must compute their gross revenues in accordance with 47 C.F.R. 90.814. The indication of applicants' status as a minority-owned business or women-owned business is for statistical purposes only. All applicants should pay particular attention to the provisions of 47 C.F.R. 1.2110 and 90.814.

Small businesses that are filing their forms electronically must also indicate the bidding credit and installment payment option to which they are entitled. See 47 C.F.R. 90.810, 90.812, 90.815. For the purpose of filing the FCC Form 175, the installment payment plan associated with small businesses that fall under the $15 million definition is hereby designated as Plan A. Similarly, the installment payment plan associated with small businesses that fall under the $3 million definition is hereby designated as Plan B. Applicants should note that an MTA license issued to an eligible small business that elects installment payments will be conditioned on the full and timely performance of the license holder's quarterly payments.

e. Applicants must identify on the FCC Form 175 the market number and frequency block for each license on which they seek bidding eligibility. Applicants should use a supplemental FCC Form 175–S to include any additional markets and frequency blocks on which they seek bidding eligibility. The market number for each MTA and the upfront payment for each frequency block in each MTA, taking into account the presence of incumbents, are listed in Attachment C of this Public Notice. MTA service areas are based on Rand McNally's 1992 Commercial Atlas & Marketing Guide, 123rd Edition, which organizes the United States into 51 MTAs.

f. Applicants must list the name(s) of the person(s) authorized to represent them at the auction (up to a maximum of three). Only those individuals listed on the FCC Form 175 will be authorized to submit and withdraw bids for the applicant during the auction.

g. Applicants should read the "certifications" on the FCC Form 175 carefully before submitting their application. Among other things, each applicant must certify that it is the real party in interest. Applicants who file their FCC Form 175 applications electronically will not be required to transmit an original or electronic signature. However, similar to a manually filed FCC Form 175, upon submission, the certifying official has made the representation that he/she is an authorized representative of the applicant for the license(s) selected, and that he/she has read the instructions and the certifications and that all matters and things stated in the application and attachments, including exhibits, are true and correct. These certifications help to ensure a fair and competitive auction and require, among other things, disclosure of certain information on agreements or arrangements concerning the auction. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, MTA license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

h. If the Commission wishes to communicate with the applicant by mail, telephone or fax, such communications will be directed to the contact person identified on the FCC Form 175. A space has been provided for both a telephone number and a fax number. All written communications will be directed to the contact person at the address specified on the FCC Form 175. (Applicants must provide a street address; PO Box addresses should not be used.)

i. Applicants seeking bidding credits and installment payments as small businesses must attach an exhibit listing ownership and gross revenue information verifying that they qualify as small businesses. Applicants must provide the identity of their affiliates, persons or entities that hold attributable interests in the applicant and their affiliates, and if a consortium of small businesses, the members in the joint venture. Partnership and other ownership interests and any stock interest amounting to 20 percent or more of the equity or outstanding stock of the applicant will be attributable.

j. Applicants must attach an exhibit identifying all parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the competitive bidding process of this auction.

k. Microfiche copies of the FCC Form 175 and 175–S applications are required for all manual submissions in excess of five pages. For this auction, the FCC will allow submission of a 3.5" diskette, in lieu of microfiche, which contains ASCII text (.TXT) files of all exhibit

documentation attached to the FCC Form 175 application.

2. Electronic Filing of FCC Form 175 Applications

The Commission recently implemented a remote access system to allow applicants to submit their FCC Form 175 applications electronically. The remote access system for initial filing of the FCC Form 175 applications will generally be available 24 hours per day beginning at approximately the same time as the release of the Bidder Information Package. FCC Form 175 applications that are filed electronically using this remote access system must be submitted and confirmed by 5:30 p.m. Eastern Time on Thursday, October 26, 1995. Late applications or unconfirmed submissions of electronic data will not be accepted. The electronic filing process consists of an initial filing period and a resubmission period to make minor corrections. See infra, Section II.A.5. Detailed filing instructions will be provided in the Bidder Information Package.

Those applicants who wish to file their FCC Form 175 electronically or review other FCC Form 175 applications on-line will need the following hardware and software:

Hardware Requirements

- CPU: Intel 80386 or above (80486 or faster recommended).
- RAM: 8MB RAM (more recommended if you have multiple applications open).
- Hard Disk: 10MB available disk space.
- 1.44MB 3.5" Floppy Drive (to install the remote system).
- Modem: v.32bis 14.4kbps Hayes compatible modem.
- Monitor: VGA or above.
- Mouse or other pointing device.
- Three 1.44MB floppy disks.

Software Requirements

- FCC-provided application software (will be available via internet or the FCC Bulletin Board System).
- PPP Asynchronous Communications Package that is Winsock v1.1 compliant (tested—Trumpet v2.0b, NetManage Chameleon v4.1, Wollongong Pathway Access for Windows v3.2).
- Microsoft Windows 3.1 or above, or Microsoft Windows for WorkGroups v3.11 or above.

Note: The FCC is in the process of testing Windows95. For further technical information, contact the FCC Technical Support Hotline at (202) 414–1260. The FCC Form 175 has not been tested on a Macintosh or OS/2 environment. Therefore, the FCC will not provide assistance to those who cannot run Microsoft Windows 3.1 or above, or Windows for Workgroups v3.11 or above in an enhanced mode. This includes any other emulated Windows environment.

If your Windows is in a networked environment, you should check with your local network administrator for any potential conflicts with the ppp software package you will use to connect to the FCC network. This usually includes any TCP/IP installed network protocol.

Applicants who wish to file their FCC Form 175 applications electronically through the FCC Remote Access System must first download the FCC-provided application software from either the Internet or the FCC Bulletin Board System. Applicants should note that previous versions of the Remote FCC Form 175 software will not work. Applicants must download the version specific to this auction (File Name: *FCC175V4.EXE*).

Internet Access

In order to download the compressed file from the Internet, you will need to have access to the Internet and an ftp client software as follows:

- *FTP:* The following instructions are for the command line version of ftp.

1. Connect to the FCC ftp server by typing ftp fcc.gov.
2. At the user name prompt, type anonymous [Enter].
3. At the password prompt, type your Internet e-mail address [Enter].
4. To allow the file to be downloaded type: binary [Enter].
5. Change your current directory to the FCC175 directory by typing: cd/pub/Auctions/SMR/MTA/FCC175 [Enter].
6. Use the get command to download files from the FCC ftp server by typing: get F175V4.EXE [Enter].
7. If you wish to exit, type: bye [Enter].

- *Gopher:* gopher.fcc.gov or use any gopher to get to "all the gophers in the world" then 'U.S.' then 'DC' then 'FCC'.
- *World Wide Web:* ftp://fcc.gov

Dial-In Access to the FCC Auction Bulletin Board System (BBS)

The FCC Auction Bulletin Board System provides dial-in access for the FCC-provided application software. In order to access the FCC Auction BBS, use a communications package that can handle at least xmodem protocol (*e.g.*, pcAnyWhere, Telix, Procomm) to dial in to (202) 682–5851. Use the settings of 8 data bits, no parity and 1 stop bit (8,N,1).

- *For new users follow steps 1–6, otherwise go to step 7:*

1. Type New, [Enter]. If the word ANSI is blinking, type Y for yes. If the word ANSI is not blinking, type N for No.
2. Type in your first and last name and press [Enter]. This will be your login name.
3. Type in your Telephone number and press [Enter].
4. Type in your Fax number and press [Enter].
5. Type in what you want your password to be and press [Enter].
6. Retype the password for verification and press [Enter].

- *Once the account is generated:*

7. Type S for SMR Auction Files and press [Enter].
8. Type P for Programs and Applications and press [Enter].
9. Move the cursor to the file named F175V4.EXE and type [Control]-D (hold the Ctrl key down and press the D key) for Download and press [Enter].
10. Type the letter representing the transfer protocol desired and press [Enter]. How the file is downloaded and where it gets downloaded depends on the transfer protocol package used.
11. Repeat steps 10 and 11 to download additional files, or press X and [Enter] to Exit the screen.

- *To Exit:*

12. Type X to Exit and press [Enter] and continue to do so until asked if you want to Exit the BBS. Press Y for Yes when asked to verify your leaving.

The FCC-provided application software available through the Internet and the FCC Auction BBS will be in a self-extracting compressed file format. Once the compressed file has been downloaded, you will need to generate the installation disks.

To generate the installation disks, type F175V4.EXE /! and press [Enter]. The extracted files will be executable programs for submitting and reviewing FCC Form 175 applications along with a README.TXT file. The text file will provide instructions for installing the software on the applicant's personal computer. For technical assistance in downloading, extracting, installing, or using the FCC application software, contact the FCC Technical Support Hotline at (202) 414-1260.

3. Manual Filing of FCC Form 175

For those applicants who file manually, whether mailed, hand delivered or sent by private courier, applications must be addressed to: Office of the Secretary, Attn: Auction 7 Short-Form Processing, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, D.C. 20554.

Applications will not be accepted if delivered to any other location. Additionally, applicants should be aware that if they file manually they will only be permitted to submit their

bids telephonically. Electronic bidding is reserved for parties who submit their applications electronically.

4. FCC Form 175 Application Fee

No application fee need accompany the FCC Form 175 for the auction.

5. Procedures after FCC Form 175 Applications are Filed and Processed for Minor Corrections.

After the deadline for filing the FCC Form 175 applications has passed, the Commission will process all applications to determine whether they are acceptable for filing. The Commission will issue a Public Notice listing all applications which are accepted for filing, rejected, and those which have minor defects that may be corrected. The Public Notice will also announce the deadline for filing corrected applications. As described more fully in the Commission's general auction rules and in the Seventh Report and Order, applicants may make minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications. In particular, failure to sign a manually filed FCC Form 175 cannot be corrected and will cause the application to be dismissed and the applicant to be ineligible to participate in the auction. See 47 C.F.R. 1.2105(b). Furthermore, applicants will not be permitted to modify their authorization selection(s), change their certifying official, or change de facto and/or de jure control of the applicant.

After the deadline for resubmitting corrected applications, the Commission will release another Public Notice announcing all applications that have been accepted for filing, including applicants who have corrected defective applications.

B. Upfront Payments

In order to be eligible to bid in the auction, applicants must submit an upfront payment together with an FCC Remittance Advice, FCC Form 159. In accordance with the Commission's rules, the minimum upfront payment is $2,500. See 47 C.F.R. 1.2106; Second Report and Order in PP Docket No. 93-253, 9 FCC Rcd 2348, at ¶ 180, 59 Fed. Reg. 22,980 (May 4, 1994). The upfront payment will be due Monday, November 13, 1995. A sample FCC Form 159 and further instructions for making auction payments will be included in the Bidder Information Package.

All payments must be made in U.S. dollars, must be in the form of a wire transfer or cashier's check, and must be made payable to the "Federal Communications Commission" or "FCC." No other form of payment will be accepted. Cashier's checks must be drawn on a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). All payments, whether by wire transfer or cashier's check, must be made to the Mellon Bank in Pittsburgh, Pennsylvania. Payments made by cashier's check must be received by 11:59 p.m. Eastern Time, Monday, November 13, 1995. Payments made by wire transfer must be received by 3:00 p.m. Eastern Time, Monday, November 13, 1995. Bidders making payments by wire transfer should allow sufficient time for the wire transfer to be confirmed.

Failure to deliver the upfront payment in a timely manner will result in dismissal of the application and inability to participate in the auction.

A bidder should calculate its upfront payment using the standard $0.02 per "activity" units formula for the largest combination of activity units upon which a bidder wishes to bid in a single round of bidding. The number of activity units associated with any particular frequency block is the product derived from multiplying the number of megahertz associated with a license by the population of the license's service area. Each license in this auction will cover 0.25 MHz. In general, the population coverage for each frequency block in each MTA will be based on a formula that takes into account the presence of incumbent licensees. Attachment C lists the activity units associated with each frequency block.

The upfront payment submitted by each applicant is not attributed to specific licenses but instead will define the maximum amount of activity units on which the applicant will be permitted to bid in any single round of bidding. The combination of activity units on which a bidder is active in a round equals the sum of the activity units associated with the MTAs on which the bidder has submitted a valid bid, or on which the bidder is the standing high bidder.

In calculating the upfront payment amount, an applicant should determine the maximum number of activity units on which it wishes to bid in any single round and submit an upfront payment covering that number of activity units. Thus, if an applicant wants to be eligible to bid in any single bidding round on a license with a total population of 750,000 persons, the applicant must submit an upfront payment of $3,750.00 (0.25 MHz times 750,000 times $0.02; note that the initial calculation of activity units—0.25 MHz times 750,000—has been done for you in Attachment C). That applicant could then be active in any single round on any license(s) whose total activity units do not exceed 187,500 (0.25 MHz times 750,000). See Seventh Report and Order at ¶¶ 110–112.

Applicants should note that if after calculating the upfront payment, the amount does not exceed $2,500, the applicant will be required to pay the minimum upfront payment amount of $2,500. Any applicant that is required to increase its upfront payment to $2,500, however, will also be allocated the corresponding amount of activity units on which it may bid (*i.e.*, a minimum upfront payment of $2,500 allows the applicant to bid on 125,000 activity units, which is derived by dividing $2,500 by $0.02). If a bidder does not plan to use the additional activity units associated with the minimum upfront payment, it may choose to reduce its eligibility in the first round or any other round. The mechanism to reduce eligibility will be explained in the Bidder Information Package.

An applicant may, on its FCC Form 175, apply for every license being offered, but an applicant need not submit an upfront payment for every license for which it has applied. The total upfront payment submitted by the applicant will determine the combinations of licenses on which the applicant will actually be permitted to be active in any single round of bidding.

Small businesses are not eligible for a reduced upfront payment.

The Commission will issue a Public Notice announcing all qualified bidders for the 900 MHz SMR auction. Qualified bidders are those whose FCC Form 175 applications have been accepted for filing and who have submitted timely upfront payments sufficient to make them eligible to bid on at least one of the MTA licenses applied for on the FCC Form 175 application.

III. Auction Event and Bidding Rounds

The 900 MHz SMR auction will begin at 9:00 a.m. Eastern Time on Tuesday, November 28, 1995. The precise schedule for bidding in the first week of the auction will be announced by Public Notice two weeks prior to the start of the auction.

Generally bids will be submitted twice each day during the first three days of bidding. The Commission may, however, increase or decrease the amount of time for bid submission as well as the number of rounds per day depending upon such factors as the bidding activity level or the aggregate amount of high bids.

IV. Auction Procedures

The MTA licenses will be awarded through a simultaneous multiple round auction. Bids will be accepted on all MTA licenses in each round of the auction until bidding stops on all licenses. See Section IV.E for specific information about stopping rules. High bid amounts will be posted after the end of the bid submission period in each round of bidding. Information regarding all valid bids submitted and all bid withdrawals in each round also will be provided along with the minimum accepted bids for the next round.

A. Number of Licenses that May be Acquired

• The Commission has imposed no limitations on the number of MTA licenses that any one entity may acquire in the 900 MHz SMR auction.

• Both incumbents and new entrants are subject to the 45 MHz aggregate spectrum cap on CMRS uses within the broadband PCS, cellular, and SMR services. 47 C.F.R. § 20.6.

B. Bid Submission and Withdrawal Procedures

• Details will be set forth in the Bidder Information Package on the procedures to be used in submitting bids.

• A high bidder may withdraw one or more of its high bids during the course of the auction during the bid withdrawal period and subject to a bid withdrawal penalty. See 47 C.F.R. § 90.805 (a) and (b).

C. Minimum Bid Increments and Tie Bids

• The minimum bid increment is the amount or percentage by which a bid must be raised above the previous round's high bid in order to be accepted as a valid bid in the current round.

• The amount of the minimum accepted bid for each MTA license (the sum of the minimum bid increment and the high bid from the previous round) will be announced before the beginning of each round.

• The Commission may, in its discretion, raise or lower the amount of the minimum bid increment at any time during the auction.

• There will be no minimum opening bids for any of the MTA licenses in the 900 MHz SMR auction and no minimum bid increment for an MTA license until that license has received a bid.

• Each bid will be date and time stamped when it is entered into the computer system. In the event of tie bids, the Commission will identify the high bidder on the basis of the order in which bids are received by the Commission, starting with the earliest bid.

More detailed information regarding the minimum bid increments for each stage of the auction will be included in the Bidder Information Package.

D. Activity Rules

• In order to ensure that the auction closes within a reasonable period of time, the Commission will impose a three-stage activity rule with increasing levels of bidding activity required in each stage in order for a bidder to maintain its current eligibility. Because activity requirements increase in each auction stage, it is especially important for bidders to check current activity during the bid submission period in the first round following a stage transition. Guidelines governing the transition from one stage to another will be set forth in the Bidder Information Package.

• A bidder will be considered active on an MTA license in the current round if it is either the higher bidder at the end of the bid withdrawal period in the previous round or submits a bid in the current round which meets or exceeds the minimum accepted bid. A bidder's activity level in a round is the sum of the activity units of the MTA licenses on which the bidder is active.

• Minimum required activity levels are associated with each stage of the 900 MHz SMR auction. Failure to maintain the requisite activity level will result in a reduction in the amount of activity units upon which a bidder will be eligible to bid in the next round of bidding (unless an activity rule waiver is used).

—Stage One: In order to maintain its current eligibility in each round of Stage One, a bidder must be active on MTA licenses encompassing at least 50% of the activity units for which it is currently eligible. If activity is below the required minimum level, eligibility in the next round will be calculated by multiplying the current round activity by two (2).

—Stage Two: in order to maintain its current eligibility in each round of Stage Two, a bidder must be active on MTA licenses encompassing at least 75% of the activity units for which it is eligible in that particular round. If activity is below the required minimum level, eligibility in the next round will be calculated by multiplying the current round activity by four-thirds (4/3).

—Stage Three: In order to maintain its current eligibility in each round of Stage Three, a bidder must be active on MTA licenses encompassing at least 95% of the activity units for which it is eligible in that particular round. If activity in the current round is below 95% of current eligibility, eligibility in the next round will be calculated by multiplying the current round activity by twenty-nineteenths (20/19).

The Commission reserves the discretion to set and, by announcement before or during the auction, vary the requisite minimum activity levels (and associated eligibility calculations) for each auction stage.

• Activity rule waivers:

—Bidders will be provided five activity rule waivers that may be used in any round during the course of the auction. A waiver will preserve current eligibility in the next round.

—If a bidder's activity level is below the required activity level a waiver will be applied automatically if a bidder still has waivers remaining and does not submit a bid or an automatic waiver override. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open.

—Bidders may override the automatic waiver mechanism if they wish to intentionally reduce their bidding eligibility and do not want to use a waiver to retain their eligibility at its current level. The bidder's eligibility will then be permanently reduced.

—Bidders may proactively enter an activity rule waiver during the bid submission period. If a bidder submits a proactive waiver in a round in which no other bidding activity occurs, the auction will remain open.

E. Stopping Rules

• Bidding will normally remain open on all MTA licenses until bidding stops on every license. The auction will close after one round passes in which no new bids or proactive waivers are submitted.

• The Wireless Telecommunications Bureau may, in its discretion, exercise the following options:

—Keep an auction open even if no new valid bids and no proactive waivers are submitted. In the event the Bureau exercises this discretion, the effect will be the same as if a bidder had submitted a proactive waiver.

—Declare at any time that the auction will end after a specified number of additional rounds. The Bureau would then accept bids in the final round(s) only for MTA licenses on which the high bid increased in at least one of the preceding three rounds.

—Close bidding on a particular MTA license or licenses individually. The Bureau anticipates using such a license-by-license stopping rule only after 40 rounds, applying if first to the

largest MTAs, and only if three or more rounds have passed without any bids on these MTA licenses.

The Bureau does not intend to exercise these options except in extreme circumstances, such as where the auction is proceeding very slowly, there is minimal overall bidding activity and it appears unlikely that the auction will close within a reasonable period of time.

F. Delay, Suspension or Cancellation of the Auction

The Commission may, by Public Notice or by announcement during the auction, delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative necessity, if for any other reason that affects the fair and competitive conduct of competitive bidding. in such cases, the Commission may, in its sole discretion, resume the auction starting from the beginning of the current or some previous round or cancel the auction in its entirety. The Commission will delay the auction in the event of technical failure involving the electronic bidding system or the telephone lines.

G. Default and Disqualification Penalties

Any high bidder who defaults by failing to remit the required down payment within the prescribed time or is disqualified after bidding is declared closed will be subject to the penaltites described in section 90.805(c) of the Commission's rules, 47 CFR 90.805(c). In addition, if a default or disqualification involves gross misconduct, misrepresentation or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses or station licenses held by the applicant. See Competitive Bidding Second Report and Order in PP Docket No. 93–253, 9 FCC Rcd 2348, at ¶ 198, 59 FR 22980 (May 4, 1994).

H. Releasing Bidder Identities

Bidders' identities and FCC Account Numbers will be disclosed prior to the auction. Thus, bidders will know in advance of the auction the identities of the bidders against whom they are bidding.

I. Collusion

To prevent collusion, the Commission's rules generally prohibit communications after FCC Form 175 applications are filed and before down payments are submitted, among applicants eligible to bid for the same geographic markets when such communications concern bids, bidding strategies or settlements. See 47 CFR 1.2105(c), (d).

V. Post-Auction Procedures for High Bidders

Detailed information regarding down payments, submission of the long-form application (FCC Form 600), and full payment and installment payment plans will be included in the Bidder Information Package.

VI. Bidder Alert

A. Applicant Certification Requirements

The Terms contained in the Commission's Report and Orders, Public Notices and in the Bidder Information Package are not negotiable. Prospective bidders should review these auction documents thoroughly prior to the auction to make certain that they understand all of the provisions and are willing to be bound by all of the Terms before making any bid.

All applicants must certify under penalty of perjury on their FCC Form 175 applications that they are legally, technically and financially qualified. Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties including monetary forfeitures, MTA license revocations, preclusion from participation in future auctions, and/or criminal prosecution.

B. A Note on Possible Deceptive Solicitations

As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use the SMR auctions to deceive and defraud unsuspecting investors. According to the Securities and Exchange Commission ("SEC"), common warning signals of such fraud include the following: the first contact is a "cold call" from a telemarketer or made in response to an inquiry prompted by a television or radio informercial; the offering materials used to invest in the venture appear to be targeted at IRA funds by, for example, including all documents and papers needed for the transfer of funds maintained in IRA accounts; the amount of the minimum investment is less than $20,000; the sales representative makes verbal representations that (1) the IRS, FTC, SEC, FCC, or some other government agency has approved the investment; (2) the investment is not subject to state or federal securities laws: (3) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include actual copies of FCC releases, or quotes from Commission personnel, giving the appearance of FCC approval or knowledge of the solicitation.

The Commission does not approve any individual investment proposal, nor does it provide a warranty with respect to any license being auctioned. Potential applicants or investors are reminded that winning a license in the 900 MHz SMR auction is not a guarantee of success in the marketplace. Information about deceptive telemarketing investment schemes is available from the Federal Trade Commission (FTC) at (202) 326–2222 and from the Securities and Exchange Commission (SEC) at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the National Fraud Information Center at 1 (800) 876–7060, the FTC or the SEC. Consumers who have concerns about specific SMR investment proposals, or previous SMR investments, may also call the FCC Auction Hotline at (202) 418–1400.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

ATTACHMENT A.—DESIGNATED FILING AREA LICENSEES

Licensee name	Call sign	Freq. block
Albany DFA licensee:		
RAM Mobile Data USA LP	WNSK553	D
Atlanta DFA licensees:		
DB Network	WPDB842	A
PowerSpectrum of Atlanta Inc	WNIX551	B
Reese Telecommunications Inc	WNKM869	C

ATTACHMENT A.—DESIGNATED FILING AREA LICENSEES—Continued

Licensee name	Call sign	Freq. block
John Palazza	WNKM870	D
Kevin Biswell	WNKM872	E
Eddie & M Kay Riggs	WNKM871	F
Motorola Comms & Electronics Inc	WNIX546	G
John B. Bryant	WNIX555	H
PowerSpectrum of Atlanta Inc	WNKM930	I
PowerSpectrum of Atlanta Inc	WNKM926	J
William G. McCart	WNKN211	K
Atlanta Trunking Assoc Inc	WPDH533	K
Jon A. Wilder	WNKM849	L
PowerSpectrum of Atlanta Inc	WNKM850	M
Wayne Powell dba Mobile Communications of Gwinnett	WNKM851	N
PowerSpectrum of Atlanta Inc	WNKM852	O
Southland Communications Inc	WNKM861	P
Joe K. Jones	WNKM961	Q
RAM Mobile Data USA LP	WNKM862	R
William T. Gerrard, dba Air Space Radio Systems	WPGH960	T
Birmingham DFA licensee:		
RAM Mobile Data USA LP	WNMO276	F
Boston DFA licensees:		
Industrial Comm & Electronics Inc	WNIX525	A
George E. Traynor	WNKM952	B
Industrial Comm & Electronics Inc	WNKM965	C
Motorola Comms & Electonics Inc	WNKM831	D
PowerSpectrum of Boston Inc	WNKM829	E
PowerSpectrum of Boston Inc	WNKM830	F
Waymon Wilburn	WNKM953	G
PowerSpectrum of Boston, Inc	WNKM828	H
RAM Mobile Data USA LP	WNKM929	I
RAM Mobile Data USA LP	WNMI931	J
ANSA Comms Inc	WNKM844	K
ANSA Comms Inc	WNKM845	L
Mobile Radio of Illinois Inc	WNKM846	M
Power Spectrum of Boston Inc.	WNKM880	N
PowerSpectrum of Boston Inc	WNKM924	O
PowerSpectrum of Boston Inc	WNKM925	P
Shapiro Ackerman Sitomer Joint Venture	WNKM926	Q
George E. Traynor	WNKM881	R
PowerSpectrum of Boston Inc	WNKM882	S
RAM Mobile Data USA LP	WNKM951	T
Buffalo DFA Licensees:		
RAM Mobile Data USA LP	WNSK707	D
Matthews Radio Service Inc	WNXG411	E
Charles J. Evans	WNXG375	K
Charlotte DFA Licensess:		
DHT Transportation Inc	WNMP589	A
RAM Mobile Data USA LP	WNMX814	F
Eric Kahan	WNMP597	H
James L. Lewis, DBA Electronic Comm Service	WNVE287	J
Charles B. Cooper	WNVE291	L
Channel One Communications Inc	WNVE283	S
Chicago DFA Licensees:		
Motorola Comm & Electronics Inc	WNID246	A
Motorola Comms & Electronics Inc	WNID231	B
RAM Mobile Data USA LP	WNID239	C
FCI 900, Inc	WNIC979	D
J T Communications Inc	WNID247	E
RAM Mobile Data USA LP	WNID259	F
FCI 900, Inc	WNKL327	G
Pat Thess	WNIC991	H
PowerSpectrum of Chicago Inc	WNKL374	I
PowerSpectrum of Chicago Inc	WNIC999	J
RAM Mobile Data USA LP	WNKL297	K
PowerSpectrum of Chicago Inc	WNKX685	L
Motorola Comms & Electronics Inc	WNID246	M
Domencich Communications Corp	WNKX682	N
A G Van Metre/Greg Jennings	WNKX670	O
Allegro Communications Co	WNKX674	P
LeVane M. Forsythe	WNMK946	Q
Chicago Repeater Service Inc	WNMW557	R
Motorola Comms & Electronics Inc	WNMK945	S

ATTACHMENT A.—DESIGNATED FILING AREA LICENSEES—Continued

Licensee name	Call sign	Freq. block
Seibert Family Inc	WPCN242	T
Cincinnati-Dayton DFA licensees:		
RAM Mobile Data USA LP	WNLT947	F
PowerSpectrum of Cincinnati Inc	WNVE358	H
Richard B. Cook	WNVE330	Q
Cleveland DFA licensees:		
RAM Mobile Data USA LP	WNSK699	D
RAM Mobile Data USA LP	WNSK683	F
R Ryan Kelley	WNSK764	O
RB Management Services Inc	WNVW514	Q
Columbus DFA licensees:		
RAM Mobile Data USA LP	WNLT948	F
Dallas DFA licensees:		
Jerry York Inc	WNID267	A
AMK International Inc	WNKL293	B
FCI 900 Inc	WNKL378	C
Millard V. Oakley	WNKL299	D
Ronald H. Hyder	WNKL295	E
Oak Hill Communications Inc	WNKL356	F
Everest Communications Inc	WNKL352	G
Plisko Communications Inc	WNKL351	H
S & S Communications, DBA Dallas Radio Relay	WNKL292	I
RAM Mobile Data USA LP	WNKL288	J
FCI 900 Inc	WNKL284	K
PowerSpectrum of Dallas Inc	WNKL329	L
RAM Mobile Data USA LP	WNKL325	M
Motorola Comms & Electronics Inc	WNKL321	N
PowerSpectrum of Dallas Inc	WNKL317	O
Walter Sterling Surrey Trust A	WNKL366	P
PowerSpectrum of Dallas Inc	WNKL362	Q
ANSA Communications Inc	WNKL358	R
ANSA Communications Inc	WNKL354	S
SIO Corporation	WNKN219	T
Denver DFA licensees:		
PowerSpectrum of Denver Inc	WNMO982	C
RAM Mobile Data USA LP	WNLT955	F
PowerSpectrum of Denver Inc	WNLR859	H
Christopher W. Young	WNLR860	I
X W Corporation	WNLR861	J
Sandra J. Gizzo	WNLR864	M
Detroit DFA licensees:		
Charles V. Maynord	WNSK734	A
AMK International Inc	WNSK738	B
Jerry R. Daniels, DBA Daniels Electronics	WNSK722	C
Stephanie C. Fenton	WNSK724	E
RAM Mobile Data USA LP	WNSK767	F
Motorola Comms & Electronics Inc	WNSK695	G
RAM Mobile Data USA LP	WNSK701	I
WKH Cell Inc	WNSK795	O
Kent S. Foster	WNSK809	P
Greensboro DFA licensees:		
DHT Transportation	WNMP588	A
RAM Mobile Data USA LP	WNMX815	F
Sandra G. Reyes	WNNJ641	H
Ronald J. Louthan	WNVE313	O
Hartford DFA licensees:		
RAM Mobile Data USA LP	WNMP945	D
Dixon Capital Associates Inc	WNNE232	E
Millicom Radio Telephone Co	WNMP944	H
RAM Mobile Data USA LP	WNMP947	J
PowerSpectrum of Hartford Inc	WPDF745	L
Richard Y C Wang	WNPW284	Q
Honolulu DFA licensees:		
RAM Mobile Data USA LP	WNMO586	F
RAM Mobile Data USA LP	WNPS265	H
K L Beaver	WNMW532	J
Houston DFA licensees:		
Motorola Comms & Electronics Inc	WNID263	A
ANSA Communication Inc	WNID219	B
CLW Communications Inc	WNKL343	C
Crane Investments Inc	WNKL355	D

ATTACHMENT A.—DESIGNATED FILING AREA LICENSEES—Continued

Licensee name	Call sign	Freq. block
Mobile Message Service of Texas Inc	WNKL377	E
Mobile Radio of Illinois Inc	WNKL373	F
ANSA Communications Inc	WNKL369	G
PowerSpectrum of Houston Inc	WPAZ645	H
Motorola Comms & Electronics Inc	WNKL349	I
FCI 900 Inc	WNKL345	J
FCI 900 Inc	WNKL341	K
Communications & Electronics Inc	WNKL337	L
Arvind Roy	WNKL333	M
Arvind Roy	WPAY956	M
RAM Mobile Data USA LP	WNKX676	N
Michael D. Longshore	WNKX719	O
PowerSpectrum of Houston Inc	WNKL350	P
David W. Farrar	WNKL347	Q
David R. & Myra M. Baker	WNPP668	Q
Motorola Comms & Electronics Inc	WNKX736	R
LeVane M. Forsythe	WNKX708	S
RAM Mobile Data USA LP	WNMH803	T
Indianapolis DFA licensees:		
RAM MObile Data USA LP	WNVE347	F
PowerSpectrum of Indianapolis Inc	WNVE335	H
Robert Y. & Jennifer W. Wang	WNVE343	K
Jacksonville DFA licensees:		
Karl Kramps	WNPO362	A
Susanne Falkensteen	WPEG222	F
PowerSpectrum of Jacksonville Inc	WNND225	H
Cleveland Mobile Radio Sales Inc	WNMY882	I
William Walker	WNMP279	L
William & Sandy Weisman, DBA Wawcomm Partnership	WNNF806	M
RAM Mobile Data USA LP	WNMJ693	O
Barbara O'Connell	WNSK910	R
Kansas City DFA licensees:		
Parkinson Electronics Company	WNNE731	C
RAM Mobile Data USA LP	WNKX742	F
PowerSpectrum of Kansas City Inc	WNLR867	H
Los Angeles DFA licensees:		
Motorola Comms & Electronics Inc	WNJA862	A
FCI 900 Inc	WNJA861	B
D Gene & D D Renegar, DBA Renegar Communications	WNJA863	C
Daniel Investments Partnership LTD	WNJA864	D
Roger Stevens	WNJA865	E
Michael L. Bachman	WNJA866	F
Tramm & Bragg Inc	WNJA875	G
RAM Mobile Data USA LP	WNJA872	H
Motorola Comms & Electronics Inc	WNJA874	I
Stanley W. Harris Family Trust	WNJA871	J
Raymond L. Collins	WNJA876	K
RAM Mobile Data USA LP	WNJA877	L
Southern California Edison Company	WNJA878	M
Barry Walker	WNJA900	N
FCI 900 Inc	WNJA901	O
Southern California Edison Co	WNJA902	P
Southern California Edison Co	WNVW895	P
Tom A. Kallas, DBA Tom A. Kallas Trust	WNJA903	Q
RAM Mobile Data USA LP	WNJA904	R
FCI 900 Inc	WNJA905	S
Southern California Edison Co	WNJA906	T
Southern California Edison Co	WNVW895	T
Louisville DFA licensees:		
RAM Mobile Data USA LP	WNSD481	101
Julia A. Conaway, DBA Radio Communication Company	WNVE374	241
Memphis DFA licensees:		
Stanley W. Harris	WNPW648	C
RAM Mobile Data USA LP	WNMO534	F
Byron L. Fox	WNNB502	G
PowerSpectrum of Memphis Inc	WNMO531	H
Cathryn R. Echols	WNPE257	O
Robert S. Litt	WNPW649	S
Miami DFA licensees:		
PowerSpectrum of Miami Inc	WNIX524	A
RAM Mobile Data USA LP	WNIX526	B

ATTACHMENT A.—DESIGNATED FILING AREA LICENSEES—Continued

Licensee name	Call sign	Freq. block
C W Telecommunications Inc	WNIX540	C
Darry Stuart	WNIX541	D
Biswell Investment Co Inc	WNKM866	E
Jerrell J. Jordan	WNIX553	F
Robert Campbell	WNKM867	G
AAT Communications Corporation	WNIX554	H
Everest Communications Inc	WNKM868	I
Mobile Comms of Florida Inc	WNKM832	J
Frank DiRico	WNKM833	K
COMMNET 900 Inc	WNKM834	L
PowerSpectrum of Miami Inc	WNKM835	M
PowerSpectrum of Miami Inc	WNKM836	N
PowerSpectrum of Miami Inc	WNKM847	O
American Mobile Systems Inc	WNKM848	P
Air Spectrum III Inc	WNKM927	Q
Banks Tower Communications Ltd	WNKM833	R
Frank DiRico	WNKM833	S
Motorola Comms & Electronics Inc	WNKMS865	T
Motorola Comms & Electronics Inc	WPDV231	T
Milwaukee DFA licensee:		
RAM Mobile Data USA LP	WNID242	F
Minneapolis/St Paul DFA Licensees:		
PowerSpectrum of Minneapolis Inc	WNMJ652	C
RAM Mobile Data USA LP	WNKX738	F
PowerSpectrum of Minneapolis Inc	WPDS596	H
PowerSpectrum of Minneapolis Inc	WPDC559	S
Nashville DFA Licensees:		
William E. Cordell	WNMK838	C
RAM Mobile Data USA LP	WNMP363	F
Alexander Stevenson	WNMP358	G
PowerSpectrum of Nashville Inc	WNMY716	H
John R. James	WNMP364	M
Frederick Russo	WNMP366	O
Richard C. Dean	WNPW647	Q
B & L Communications Inc	WNSK922	T
New Orleans DFA Licensees:		
AFM Partners Inc	WNDR438	C
RAM Mobile Data USA LP	WNLT967	F
PowerSpectrum of New Orleans Inc	WNLT966	H
DW Communications Inc	WPGZ968	T
New York DFA Licensees:		
RAM Mobile Data USA LP	WNKM884	A
Eastern Communications Ltd	WNIX495	B
Joan Backe	WNIX497	C
RAM Mobile Data USA LP	WNIX499	D
New York Mobile Inc	WNIX507	E
SMRS 505 Inc	WNIX505	F
PowerSpectrum of New York Inc	WNIX522	G
PowerSpectrum of New York Inc	WPBW423	G
Motorola Comms & Electronics Inc	WNIX501	H
Motorola Comms & Electronics Inc	WNIX509	I
Motorola Comms & Electronics Inc	WNIX510	J
PowerSpectrum of New York Inc	WNIX513	K
PowerSpectrum of New York City Inc	WNIX518	L
Charles R. Tyler & Ruth N. Tyler	WNIX520	M
Paul W. Klein & Robert J. Klein	WNIX550	N
RAM Mobile Data USA LP	WNKM941	O
FCI 900 Inc	WNKM963	P
PowerSpectrum of New York City Inc	WNIX486	Q
Lisa K. Wood	WNIX502	R
Lawrence C. Schroll	WNIX515	S
Motorola Comms & Electronics Inc	WNIX516	T
Norfolk DFA licensees:		
RAM Mobile Data USA LP	WNMC825	F
Steven W. Brandon	WNMW732	L
Stephen L. Vader	WNVE288	M
Thomas Gavin	WNSK730	O
Oklahoma City DFA licensee:		
RAM Mobile Data USA LP	WNNH866	F
Orlando DFA licensees:		
PowerSpectrum of Orlando Inc	WNLR322	A

ATTACHMENT A.—DESIGNATED FILING AREA LICENSEES—Continued

Licensee name	Call sign	Freq. block
Glenn Howard	WNLR319	C
Motorola Inc	WNLR323	F
RAM Mobile Data USA LP	WNLR325	G
PowerSpectrum of Orlando Inc	WNLX210	H
Radio One Inc	WNLR331	J
Teresa L. Chase	WNLS526	K
Delores & Gary Fuller	WNLS528	L
PowerSpectrum of Orlando Inc	WNLR330	M
Cutter Investments Inc	WNSK726	N
RAM Mobile Data USA LP	WNME958	O
Johnson Communications Corp	NWVE284	R
American National Communications Company Inc	WNVE296	S
PowerSpectrum of Orlando Inc	WNVE312	T
Philadelphia DFA licensees:		
RAM Mobile Data USA LP	WNKM885	A
G & G Communications Inc	WNIX494	B
Motorola Comms & Electronics Inc	WNIX496	C
Philadelphia Mobile Inc	WNIX506	E
ANSA Comms Inc	WNIX504	F
PowerSpectrum of Philadelphia Inc	WNIX500	H
PowerSpectrum of Philadelphia Inc	WNIX508	I
Motorola Comms & Electronics Inc	WNIX511	J
ANSA Communications Inc	WNIX512	K
ANSA Communications Inc	WNIX519	L
JAN Industrial	WNIX521	M
Robert S. Moore	WNIX549	N
RAM Mobile Data USA LP	WNIX498	O
Dale L. Petrovitch	WNKM964	P
Michael Sporer	WNIX485	Q
Motorola Comms & Electronics Inc	WNIX503	R
Charles M. Lunda	WNIX514	S
Phoenix DFA licensees:		
King James Partnership	WNKS306	D
RAM Mobile Data USA LP	WNLY399	F
PowerSpectrum of Phoenix Inc	WNLR696	H
Mike Gantzel	WNLS299	K
Pro Tec Mobile Comms	WNLU549	M
PowerSpectrum of Phoenix Inc	WNLU551	P
John Stetter	WNLU552	Q
PowerSpectrum of Phoenix Inc	WNLY457	R
PowerSpectrum of Phoenix Inc	WNLU553	S
Durham Communications Inc	WNMO983	T
Pittsburgh DFA licensees:		
RAM Mobile Data USA LP	WNKM876	F
Loc Rad Inc	WNND955	P
Portland DFA licensees:		
RAM Mobile Data USA LP	WNLM361	H
Stanley W. Harris	WNNE904	R
Richmond DFA licensees:		
RAM Mobile Data USA LP	WNMC822	F
PowerSpectrum of Richmond Inc	WPCC350	L
Rochester DFA licensees:		
RAM Mobile Data USA LP	WNSK687	D
Carter E. Keithley	WNXG482	E
Dan Holland	WNXG515	H
Salt Lake City DFA licensees:		
RAM Mobile Data USA LP	WNMO988	F
William J. Liccardi	WNMY410	H
David W. Anderson	WNMO989	L
Telewest Communications Inc	WPHN388	O
PowerSpectrum of Salt Lake City Inc	WPBS847	S
San Antonio DFA licensees:		
Samuel H. Cade	WNPS264	C
Robert S. Litt	WNPP524	D
Mark Parkhurst	WNPP516	E
RAM Mobile Data USA LP	WNPS263	F
ANSA Communications Inc	WPFQ264	H
George R. Farquhar	WNPP495	I
PowerSpectrum of San Antonio Inc	WNSK927	N
William A. & Sandra Weisman, DBA Wawcomm Partnership	WNSK947	O
Jen Song	WNSK951	P

ATTACHMENT A.—DESIGNATED FILING AREA LICENSEES—Continued

Licensee name	Call sign	Freq. block
San Diego DFA licensees:		
Fisher Communications Inc	WPCS839	A
Anthony Rossi	WPCS837	B
Advanced MobileComm Inc	WPCS836	C
Industrial Comm & Electronics Inc	WPDI922	D
B C I Corporation	WPCS835	E
LegalCom Services Inc	WPCS841	F
Advanced Mobilecomm Inc	WPCS840	G
RAM Mobile Data USA LP	WPCS826	H
Billy J. Parrott	WPCS825	I
Advanced Mobilecomm Inc	WPCS838	J
Advanced Mobilecomm Inc	WPCS850	K
James Fulton	WPCS842	L
William H. Holman	WPCS843	M
John M. Atkins, DBA Progressive Mobile Comms Serv	WPCS844	N
Advanced Mobilecomm Inc	WPCS845	O
Gerald Kenney	WPCS846	P
Kathleen Janssen	WPCS849	Q
Visionex Inc	WPCS847	R
Keith Orosz	WPCS851	S
Wayne C. Goff	WPCS848	T
San Francisco DFA licensees:		
PowerSpectrum of San Francisco Inc	WNJA859	A
Ratelco Properties Corporation	WNJA868	B
David A. Hernandez	WNJA869	C
Phillip N. Lyons, DBA Lyons Community Property Trust	WNNH546	C
Yvette A. Kay	WNJA870	D
Motorola Comms & Electronics Inc	WNJA879	E
Daniel Garcia & William Frederickson	WNJA880	F
RAM Mobile Data USA LP	WNJA881	G
RAM Mobile Data USA LP	WNJA882	H
J E Hathaway	WNJA884	I
PowerSpectrum of San Francisco Inc	WNJA885	J
PowerSpectrum of San Francisco Inc	WNJA886	K
FCI 900 Inc	WNJA887	L
PowerSpectrum of San Francisco Inc	WNJA888	M
Ameen W. Toomey, Jr	WNJA889	N
FCI 900 Inc	WNJA890	O
FCI 900 Inc	WNJA891	P
FCI 900 Inc	WPDH523	P
FCI 900 Inc	WNJA892	Q
FCI 900 Inc	WNJA911	R
FCI 900 Inc	WNJA912	S
MacDermott Communications	WNJA893	T
Seattle DFA Licensees:		
Arthur E. & Patricia Pflueger, DBA Pflueger Enterpises	WNSK742	A
Motorola Comms & Electronics Inc	WNSK746	B
ANSA Communications Inc	WNSK675	E
RAM Mobile Data USA LP	WNSK727	F
PowerSpectrum of Seattle Inc	WNSK712	G
RAM Mobile Data USA LP	WNSK693	H
Phillip N Lyons, DBA Lyons Community Property Trust	WNSK689	I
OneComm Corporation NA	WNVW592	K
Tim McDonnell	WNSK778	L
Radio Systems Inc	WNSK782	M
Motorola Comms & Electronics Inc	WNSK790	O
Ronald W. Long	WNSK794	P
PowerSpectrum of Seattle	WNSK802	R
Robert Y. & Jennifer W. Wang	WNSK806	S
St. Louis DFA Licensees:		
RAM Mobile Data USA LP	WNID238	F
PowerSpectrum of St Louis Inc	WNKL303	H
Tampa/St Petersburg DFA Licensees:		
PowerSpectrum of Tampa Inc	WNKN212	A
Motorola Comms & Electronics Inc	WNLR320	B
Susan J. Robbins	WNLR321	C
GEM Electronics of Monmouth Inc	WNLX211	D
American Mobile Systems Inc	WPEE671	E
PowerSpectrum of Tampa Inc	WNLR326	H
T R Radio Inc	WNLR329	I
American Mobile Systems Inc	WPEE670	J

ATTACHMENT A.—DESIGNATED FILING AREA LICENSEES—Continued

Licensee name	Call sign	Freq. block
Kevin B. Howard	WNLS525	K
Glenn Howard	WNLS527	L
PowerSpectrum of Tampa Inc	WNLS530	M
RAM Mobile Data USA LP	WNPE252	O
American Mobile Systems Inc	WNVE280	P
Adam Kasper	WNVE289	Q
Gabriel W. Witt, DBA G. Witt and Sons	WNVE293	R
David H. Larsen	WNSK785	S
PowerSpectrum of Tampa Inc	WNLR324	T
Washington, DC/Baltimore DFA Licensees:		
PowerSpectrum of DC Inc	WNKM904	A
C&E Inc	WNKM905	B
Anita Kuskey	WNKM906	C
PowerSpectrum of DC Inc	WNKM907	D
Empire Leasing Inc	WNKM908	E
RAM Mobile Data USA LP	WNKM909	F
Wayne H. Braaten	WNKM910	G
PowerSpectrum of DC Inc	WNKM911	H
Mobilecall Inc	WNKM912	I
Motorola Comms & Electronics Inc	WNKM913	J
PowerSpectrum of DC Inc	WNKM914	K
ANSA Communications Inc	WNKM915	L
Motorola Comms & Electronics Inc	WNKM916	M
PowerSpectrum of DC Inc	WNKM917	N
RAM Mobile Data USA LP	WNKM918	O
Five Apples Inc	WNKM919	P
Nextel Comms of the Mid Atlantic Inc	WNKM920	Q
Di Nucci & Associates Inc	WNKM921	R
2282 Inc	WNKM922	S
PowerSpectrum of DC Inc	WNKM923	T

ATTACHMENT B.—DESIGNATED FILING AREA LICENSEE NAMES AND ADDRESSES

Licensee name	Point of contact	Street address	City, State & Zip	Phone No.
2282 Inc		POB 692282	Houston, TX 77269–2282	713–894–4800
AG Van Metre	Greg Jennings	7209 Lockort Rd	Lorton, VA 22079	703–550–9898
AAT Communicati0ns Corporation.	Attn: William J. Marraccini	1854 Hylan Blvd	Staten Island, NY 10305	718–987–4052
Adam Kasper		5140 Sunrise Beach Rd NW	Olympia, WA 98502	206–866–9082
Advanced Mobilecomm Inc	George K. Hertz	82 Devonshire St R25D	Boston, MA 02109	617–563–6371
AFM Partners Inc	Attn: Kevin Korowicki (Geotek).	POB 4904	Incline Village, NV 89450	201–930–9305
Air Spectrum III Inc		1463 Banks Rd	Margate, FL 33063	305–755–0517
Alexander Stevenson	Attn: Kevin Korowicki (Geotek).	6817 Laverrock Court	Bethesda, MD 20817	201–930–9305
Allegro Communications Co		23642 Calabasas Rd, Ste 104.	Calabasas, CA 91302–1592	818–884–3818
Ameen W. Toomey, Jr		POB 294	San Ramon, CA 94583	413–783–3900
American Mobile Systems Inc	Attn: Jodi Ann Cammarata	2780 Gateway Dr	Pompano Beach, FL 33069	305–970–4555
American National Communications Company Inc.	Attn: Don Garrison	7381 114th Ave N, Ste 401B	Largo, FL 34643	813–546–5255
AMK International Inc	Attn: Andrew Daskalakis	13212 Beall Creek Ct	Potomac, MD 10854	301–963–8515
Anita Kuskey	Attn: Kevin Korowicki (Geotek).	2690 Monica Way	Solvang, CA 93463	201–930–9305
ANSA Comms Inc	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
Anthony Rossi		5503 Linden Ct	Spring, TX 77379–8864	713–370–7771
Arthur E. & Patricia Pflueger, DBA Pflueger Enterprises.	Attn: Kevin Korowicki (Geotek).	POB 26399	San Diego, CA 92196	201–930–9305
Arvind Roy		6016 Crossview Circle	San Jose, CA 95120	619–320–8942
Atlanta Trunking Assoc Inc	Attn: Harold L. Josey	215 N. Fayette Court	Fayetteville, GA 30214	815–858–3532
B & L Communications Inc	New River Station	POB 950	Ft Lauderdale, FL 33302–0905.	305–527–8535
BCI Corporation	Attn: Larry Burk	POB 403	Mishawaka, IN 46544	219–232–5876
Banks Tower Communications Ltd.	Attn: Leonard B. Stevens	347 Montgomery Ave	Bala Cynwyd, PA 19004	305–968–1908
Barbara O'Connell		1 Hawley Terrace	Yonkers, MY 10701	407–682–7104
Barry Walker		7 Sickletown Rd	Pearl River, NY 10965	914–735–9152

ATTACHMENT B.—DESIGNATED FILING AREA LICENSEE NAMES AND ADDRESSES—Continued

Licensee name	Point of contact	Street address	City, State & Zip	Phone No.
Billy J. Parrott		27 Calumet Ave	Hasting-ON-Hudson, NY 10706.	407–682–7104
Biswell Investment Co Inc	Attn: Mary Biswell	3846 Sunnyside	Visalia, CA 93277	209–734–3855
Byron L. Fox	Attn: Kevin Korowicki (Geotek).	955 Easley Canyon Rd	Glendora, CA 91741	201–930–9305
C W Telecommunications Inc		3442 Eagle Dr	Chambersburg, PA 17201	717–263–0509
C&E Inc		10818 Barely Lane, Ste B	Houston, TX 77070	713–894–4800
Carter E. Keithley	Attn: Kevin Korowicki (Geotek).	10629 Rock Run Dr	Potomac, MD 20854	201–930–9305
Cathryn R. Echols		5730 Drexel Dr	Garland, TX 75043	214–686–7558
Channel One Communications Inc.	DB Sinclair	POB 652	Wilmette, IL 60091	305–389–0450
Charles B. Cooper		POB 540327	Orlando, FL 32854	407–422–8212
Charles J. Evans	Attn: Kevin Korowicki (Geotek).	32076 Robin Hood	Birmingham, MI 48010	201–930–9305
Charles M. Lunda		5620 Camphor St	Metairie, LA 70003	504–455–3526
Charles R. Tyler & Ruth N. Tyler.		7707 Groton Rd	Bethesda, MD 20817	201–447–7520
Charles V. Maynord		616 Spring St	Livingston, TN 38570	615–823–1261
Chicago Repeater Service Inc		8844 W. 47th St	Brookfield, IL 60513	708–485–4910
Christopher W. Young		710 N. Vista	Visalia, CA 93291	407–682–7104
Cleveland Mobile Radio Sales Inc.		5533 State Rd	Cleveland, OH 44134	904–752–6494
CLW Communications Inc	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
COMMNET 900 Inc	Attn: Harry Fitzgerald	POB 410	Bourbonnais, IL 60914	815–937–8875
Communications & Electronics Inc.	Attn: Jeff Scott	POB 692282	Houston, TX 77269–2282	713–894–4800
Crane Investments Inc		9810 FM 1960 Ste 215	Humble, TX 77338	713–446–4050
Cutter Investments Inc	Thomas Hendricks	POB 4602	Winter Park, FL 32793	407–671–0004
D Gene & D D Renegar, DBA Renegar Communications.		4110 Cedar Lake 101 POB 270786.	Dllas, TX 75227	214–381–4391
Dale L. Petrovitch		101 W. Rose Valley Rd	Wallingford, PA 19086	215–565–4021
Dan Holland	Attn: Kevin Korowicki (Geotek).	1238 S. Holland Rd	Warren, IL 61087	201–930–9305
Daniel Garcia & William Frederickson.	IRC Electrical Contractors	351–A Sunset Dr	Antioch, CA 94509	415–757–8282
Daniel Investments Partnership LTD.	Attn: Burl B. Daniel	4117 Inwood Rd	Ft. Worth, TX 76109	817–924–9872
Darry Stuart		21 Lake St	Wrentham, MA 02093	508–384–3844
David A. Hernandez		1601 Neptune Dr	San Leandro, CA 94577	510–895–9500
David H. Larsen		180 State Rd, 434 West Ste 2130.	Longwood, FL 32779–5009	407–862–8989
David R. & Myra M. Baker		180 E. 79th St, #16–B	New York, NY 10021–0437	212–861–9275
David W. Anderson		19512 Surfdale Ln	Huntington Beach, CA 92648	714–963–8338
David W. Farrar		555 W. Fifth St, Ste 4600	Los Angeles, CA 90013–1025.	214–243–2419
DB Network		10610 Metric Drive, Suite 114.	Dallas, TX 75243	
Delores & Gary Fuller		9708 Karmont	South Gate, CA 90280	310–928–0760
DHT Transportation Inc	Attn: Kevin Korowicki (Geotek).	20035 Lichfield Rd	Detroit, MI 48221	201–930–9305
Di Nucci & Associates Inc		POB 92–7569	San Diego, CA 92192–7569	619–627–7717
Dixon Capital Associates Inc	Attn: Kevin Korowicki (Geotek).	2141 Wisconsin Ave NW, Ste D–2.	Washington, DC 20007	201–930–9305
Domencich Communications Corp.	Attn: Kevin Korowicki (Geotek).	104 Benevolent St Carriage House.	Providence, RI 02906	201–930–9305
Durham Communications Inc	John C. Durham	3343 N. Reseda Ste 32	Mesa, AZ 85205	602–981–8875
DW Communications Inc	Attn: Robert Wallenburg	1725 Field Ave	Metairie, LA 70001	504–887–7930
Eastern Communications Ltd		48–14 36th St	Long Island City, NY 11101	718–729–2044
Eddie & M Kay Riggs		8318 Calais Circle	Orlando, FL 32825	305–275–0101
Empire Leasing Inc	Attn: Dave Schaeffer	3621 Benning Rd NE	Washington, DC 20019	202–397–6760
Eric Kahan	Attn: Kevin Korowicki (Geotek).	Rt 1, Box 279	Charles Town, WV 25414	201–930–9305
Everest Communications Inc	Attn: Andrew Everest	POB 33967	San Antonio, TX 78265–3967	512–657–2856
FCI 900, Inc	Attn: Nextel Comms Inc	201 Route 17 North	Rutherford, NJ 07070	201–438–1400
Fisher Communications Inc		14530 S. Commercial St	Blythe, CA 92225	619–922–4150
Five Apples Inc		109 N Brush St, Ste 200	Tampa, FL 33602	813–273–0050
Fleet Call of Utah Inc	Attn: Nextel Comms Inc	201 Rt 17 N	Rutherford, NJ 07070	201–438–1400
Fleet Call, Inc	Attn: Nextel Communications Inc.	201 Route 17 North	Rutherford, NJ 07070	204–438–1400
Frank DiRico		100 Marion Dr	Kingston, MA 02364	617–585–9100

ATTACHMENT B.—DESIGNATED FILING AREA LICENSEE NAMES AND ADDRESSES—Continued

Licensee name	Point of contact	Street address	City, State & Zip	Phone No.
Frederick Russo	Attn: Kevin Korowicki (Geotek).	330 Washington St, Ste 400	Marina Del Rey, CA 90292	201–930–9305
G & G Communications Inc	Gerald Sykes	Rt 4, Box 124	Franklinville, NJ 08322	609–694–1717
Gabriel W. Witt, DBA G. Witt and Sons.		3954 Agate	Glen Avon Riverside, CA 92502.	714–761–3900
George E. Traynor		67 Spruce St	Hyannis, MA 02601	508–775–8754
George R. Farquhar		4150 Via Dolce, Ste 125	Marina Del Rey, CA 90292	213–827–4245
Gerald Kenney		16 Spruce Cir	Farmingville, NY 11738	516–736–0832
Glenn Howard		POB 774446	Steamboat Springs, CO 80477.	415–593–7207
Gregory Wildes	Attn: Kevin Korowicki (Geotek).	118 Queens Court	Massapequa Park, NY 11762	201–930–9305
Industrial Comm & Electronics Inc.	Attn: David J. Fenton Jr	100 Marion Dr	Kingston, MA 02364	617–585–9100
J E Hathaway		3045 Dove Lane	Mulbery, FL 33860	813–646–8879
J T Communications Inc	Attn: Joseph K. Tariska	2975 Claremont Rd	Shaker Heights, OH 44122	216–561–5330
James Fulton		3213 W Wheler St	Seattle, WA 98199	206–745–3482
James L. Lewis, DBA Electronic Communications Service.		POB 248	Darlington, SC 29532	803–393–7709
JAN Industrial	Norm Levine	6630 S. Crescent Blvd	Pennsauken, NJ 08109	609–663–4800
Jerrell J. Jordan		POB 668	Douglasville, GA 30133	404–949–3596
Jerry R. Daniels, DBA Daniels Electronics.		1924 Barton Park Rd #2401	Auburndale, FL 33823	813–299–2942
Jerry York Inc		7013 Oakland	North Richland Hills, TX 76118.	817–269–6300
Jesse Morales	Attn: Kevin Korowicki (Geotek).	6904 Rochelle Dr	Plano, TX 75023	201–930–9305
Joan Backe		8633 Sheffied	Dyer, IN 46311	219–365–5559
Joe K. Jones		2321 Custer Parkway	Richardson, TX 75080	214–746–6311
John B. Bryant		474 Mountain Park Trl	Stone Mountain, GA 30087	404–469–4031
John M. Atkins, DBA Progressive Mobile Comms. Serv.		13614 Clary Sage Dr	Chantilly, VA 22021	703–435–7699
John Palazza		1415 SW Tenth St	Boca Raton, FL 33486	305–755–3932
John R. James	Attn: Kevin Korowicki (Geotek).	3288 Mount View Ave	Los Angeles, CA 90066	201–930–9305
John Stetter		POB 10901	Marina Del Rey, CA 90291	213–306–3221
Johnson Communications Corp.		5201 B Brook Hollow Parkway.	Norcross, GA 30071	407–644–8907
Jon A. Wilder		127 Adams	Ann Arbor, MI 48104	313–662–7615
Jon W. Bos	Attn: Kevin Korowicki (Geotek).	6 Carol Ann Ct	West Islip, NY 11795	201–930–9305
Julia A. Conaway, DBA Radio Communication Company.		2166 W. Broadway #518	Anaheim, CA 92804	714–772–6183
K L Beaver		1030 Mandalay Beach RD	Oxnard, CA 93035	805–985–2527
Karl Krampe	Attn: Kevin Korowicki (Geotek).	77 Ocean Ave	Massapequa Park, NY 11762	201–930–9305
Kathleen Janesen		2771 E French Camp Rd	Manteca, CA 95336	209–982–1993
Keith Orosz		POB 336	Seal Beach, CA 90740	310–799–0773
Kent S. Foster		1 Plaza Square, Ste 204	Port Arthur, TX 77642	409–983–3339
Kevin B. Howard		POB 774446	Steamboat Springs, CO 80477.	303–879–8955
Kevin Biswell		535 Red Rose Ln, Apt G	Santa Barbara, CA 93109	805–963–4171
King James Partnership		15228 Upton Ave	San Leandro, CA 94578	415–357–6343
Lawrence C. Schroll		16224 Orchard Bend Rd	Poway, CA 92064	619–485–6646
LegalCom Services Inc		1919 Pennsylvania Ave NW, Ste 300.	Washington DC 20006–3404	202–296–0600
LaVane M. Forsythe		1425 Hwy 208	Yerington, NV 89447	702–463–3507
Lisa K. Wood		2200 St. Clair	Brentwood, MO 63144	714–675–5020
Loc Rad Inc.	Attn: Kevin Korowicki (Geotek).	POB 91140	Los Angeles, CA 90009	201–930–9305
MacDermott Communications		38 Lee Street	Bangor, MD 04401	207–947–5106
Mark Parkhurst		Rt 9 Box 179	Longview, TX 75601	214–663–2229
Mathews Radio Service Inc	Attn: Kevin Korowicki (Geotek).	18212 Tayport Dr	Charlotte, NC 28278	201–930–9305
Michael D. Longshore		Box 189, 12 Chapel St	Canton, NY 13617	315–386–3069
Michael L. Bechman		POB 5271	Klamath Falls, OR 97601	503–882–0526
Michael Sporer		617½ Washington Blvd	Marina Del Rey, CA 90292	301–526–7137
Mike Gantzel		POB 514	Chandler, AZ 85244	602–320–7051
Millard V. Oakley		1024 W. Main St, POB 520	Livingston, TN 38570	615–833–5633
Millicom Radio Telephone Co		153 E 53rd St, Ste 2500	New York, NY 10022	212–756–4466
Mobile Comms of Florida Inc	Attn: Nextel Comms Inc	201 Route 17 North	Rutherford, NJ 07070	201–438–1400

ATTACHMENT B.—DESIGNATED FILING AREA LICENSEE NAMES AND ADDRESSES—Continued

Licensee name	Point of contact	Street address	City, State & Zip	Phone No.
Mobile Message Service of Texas Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
Mobile Radio of Illinois Inc	Attn: Nextel Comms Inc	201 Rt 17 N	Rutherford, NJ 07070	201–438–1400
Mobilecall Inc	Attn: Andrew Daskalakis	13212 Beall Creek Ct	Potomac, MD 20854	301–963–8515
Motorola Comms & Electronics Inc.		1270 Fairfield Rd, Ste 5	Gettysburg, PA 17325	708–490–6707
Motorola Inc		1270 Fairfield Rd, Ste 5	Gettysburg, PA 17325	201–447–7517
New York Mobile Inc	Attn: Kevin Korowicki (Geotek).	POB 520	Livingston, TN 38570	201–930–9305
Nextel Comms of the Mid Atlantic Inc.	Attn: Nextel Comm Inc	201 Route 17 North	Rutherford, NJ 07070	201–438–1400
Oak Hill Communications Inc	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
OneComm Corporation NA	Attn: Regulatory Affairs	4643 S Ulster St, Ste 500	Denver, CO 80237	303–721–3407
Parkinson Electronics Company.	Attn: Kevin Korowicki (Geotek).	1515 Houston St, PO Drawer 1622.	Levelland, TX 79336	201–930–9305
Pat Thess		4016 Ashby Rd	St. Ann, MO 63074	314–423–4702
Paul W. Klein & Robert J. Klein.		12719 Calumet Ave	Cedar Lake, IN 46303	219–365–5250
Philadelphia Mobile Inc	Attn: Kevin Korowicki (Geotek).	POB 520	Livingston, TN 38570	201–930–9305
Phillip N Lyons, DBA Lyons Community Property Trust.		5000 Birch, Ste 5500	Newport Beach, CA 92660	714–251–1200
Plisko Communications Inc	Attn: John Plisko	4103 Crescent Dr DEBE	Granbury, TX 76049	817–274–3883
PowerSpectrum Inc	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Atlanta Inc	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Boston Inc	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Chicago Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Cincinnati Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of DC Inc	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Dallas Inc	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Denver Inc	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Hartford Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Houston Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Indianapolis Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Jacksonville Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Kansas City Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Memphis Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Miami Inc	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Minneapolis Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Nashville Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of New Orleans Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of New York City Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Orlando Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Philadelphia Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Phoenix Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Richmond Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Salt Lake City Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305

ATTACHMENT B.—DESIGNATED FILING AREA LICENSEE NAMES AND ADDRESSES—Continued

Licensee name	Point of contact	Street address	City, State & Zip	Phone No.
PowerSpectrum of San Antonio Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Seattle	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of St. Louis Inc.	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
PowerSpectrum of Tampa Inc	Attn: Kevin Korowicki (Geotek).	20 Craig Rd	Montvale, NJ 07645	201–930–9305
Pro Tec Mobile Comms		1641 N. Pinal Ave	Casa Grande, AZ 85222	502–836–2025
R. Ryan Kelley		1545 Hillcrest Dr	Arroyo Grande, CA 93420	216–461–0483
Radio One Inc		6239 Edgewater Dr. Ste A–1	Orlando, FL 38210	407–788–9488
Radio Systems Inc	Larry B. Hill	5201–B Indian Trail Industrial Parkway.	Norcross, GA 30071	206–325–7575
RAM Mobile Data USA LP	Steven Apicella	10 Woodbridge Ctr Dr, Ninth FL.	Woodbridge, NJ 07095	902–602–5500
Ratelco Properties Corporation.		1260 Mercer St	Seattle, WA 98109	206–624–9700
Raymond L. Collins		1155 Terra Bella Ave	Mountain View, CA 94043	805–583–4568
RB Management Services Inc	Attn: Robert B. Blow	1555 Lynnfield Rd, Ste 138	Memphis, TN 38119	901–682–6060
Reese Telecommunications Inc.		1573 West Chicago St	Coldwater, MI 49036	517–278–7339
Richard B. Cook		8128 Manitoba #113	Playa Del Rey, CA 90293	213–821–2252
Richard C. Dean	Powder Valley Office	Box 300	Zionsville, PA 18082	215–797–4530
Richard Y C Wang		408 Pine Creek Rd	Exton, PA 19341	407–425–9072
Rick Kaminer	Attn: Kevin Korowicki (Geotek).	520 Sunrise Hwy	West Babylon, NY 11704	201–930–9305
Robert Campbell		30 Twilight Path	East Weymouth, MA 01289	617–331–4367
Robert G. Derryberry	Attn: Kevin Korowicki (Geotek).	122 S. Main St	Spring Hill, LA 71075	201–930–9305
Robert S. Litt		839 17th St. NW	Washington, DC 20006	202–331–5104
Robert S. Moore		2131 Thornapple Dr	Toledo, OH 43614	419–382–2239
Robert Y. & Jennifer W. Wang	Attn: Jennifer W. Wang	1018 Heron Way	Sugar Land, TX 77478	713–491–8975
Roger Stevens		28 Ringneck Rd	Remsenburg, NY 11960	516–325–8472
Ronald H. Hyder		214 E. Main St, POB 379	Livingston, TN 38570	615–823–1261
Ronald J. Louthan		6202 Vista Del Mar #353	Playa Del Rey, CA 90293	213–823–1309
Ronald W. Long		2550 Davis St	San Leandro, CA 94577	415–635–6612
S & S Communications, DBA Dallas Radio Relay.	Attn: Richard D. Springer	4405 Vanalden Ave	Tarzana, CA 91356	818–343–8131
S A Dawson, DBA Dawson Associates.		313 W 57th St 3C	New York, NY 10019	212–664–0603
Sallie Wallace	Attn: Kevin Korowicki (Geotek).	9721 The Corral Dr	Potomac, MD 20854	201–930–9305
Samuel H. Cade	Attn: Kevin Korowicki (Geotek).	2 Nonesuch Rd	Dallas, TX 75214	201–930–9305
Sandra G. Reyes	Attn: Kevin Korowicki (Geotek).	5313 Sandy Trail Ct	Plano, TX 75023	201–930–9305
Sandra J. Gizzo		11303 Moorpark St	Hollywood, CA 91602	818–509–5924
Seibert Family Inc		122 14th Ave	Indialantic, FL 32903	407–676–2095
Shapiro Ackerman Sitomer Joint Venture.		1273 N Church St, Unit 107	Moorestown, NJ 08057	
SIO Corporation		400 N. Saint Paul St, Ste 1000.	Dallas, TX 75201	214–922–8023
SMRS 505 Inc		1100 Park St	Hosington, KS 67544	316–653–2776
Southern California Edison Company.	Attn: Brent W. Goodrich	POB 429	Alhambra, CA 91802	818–308–6644
Southland Communications Inc.	Attn: David Gadd	5965 Old National Hwy	College Park, GA 30349	404–991–0581
Stanley W. Harris	Attn: Keven Korowicki (Geotek).	68 La Paz Court	Simi Valley, CA 93065	201–930–9305
Stanley W. Harris Family Trust.	ATTN: Stanley Harris	POB 1510	Simi Valley, CA 93062	805–584–9542
Stephanie C. Fenton		401 Bounty Way °145	Avon Lake, OH 44012	810–542–1072
Stephen L. Vader		1305 North H St, Ste E–179	Lompoc, CA 93436	213–803–5677
Steven W. Brandon	Attn: Kevin Korowicki (Geotek).	12021 Wilshire Blvd 454	West Los Angeles, CA 90025	201–930–9305
Susanne Falkensteen		POB 774446	Steamboat Springs, CO 80477.	
T R Radio Inc		POB 340	Cos Cob, CT 06807	212–421–9870
Telewest Communications Inc	Attn: Paul Temer	218 Van Gogh Dr	Osprey, FL 34229	813–966–6688
Teresa L. Chase		POB 13161	Zephyr Cove, NV 89448	701–588–1345
Thomas Gavin		1 Old Bog Rd, POB 213	Kingston, MA 02364	617–746–9100
Tim McDonnell		24665 W. Senda Salvia	Calasbasas, CA 91302	206–325–7575

ATTACHMENT B.—DESIGNATED FILING AREA LICENSEE NAMES AND ADDRESSES—Continued

Licensee name	Point of contact	Street address	City, State & Zip	Phone No.
Tom A. Kallas, DBA Tom A. Kallas Trust.		4318 Presidential Ave Cir E	Bradenton, FL 34203	813–758–7929
Tramm & Bragg Inc	Randolph Mock	1413 Severn Ave	Metairie, LA 70001	504–837–1564
Visionex Inc	Attn: Michael Printz	14 Bonnie Brook Rd	Westport, CT 06880	407–682–7104
Walter Sterling Surrey Trust A	Attn: A Stertzer A3 484 Security Trust Co.	1501 Pennsylvania Ave NW	Washington, DC 20013	703–243–8855
Waymon Wilburn		730A Country Pl	Houston, TX 77079	713–597–0661
Wayne C. Goff		38295 Chuperosa	Cathedral City, CA 92234	619–328–5600
Wayne H. Braaten		6850 Alpine Rd	Rockford, IL 61111	815–654–2070
Wayne Powell dba Mobile Communications of Gwinnett.		885 Cripple Creek Dr	Lawrenceville, GA 30243	404–963–3748
William & Sandy Weisman, DBA Wawcomm Partnership.	Attn: Kevin Korowicki (Geotek).	2 Cross St	Sherborn MA 01770	201–930–9305
William E. Cordell	Attn: Kevin Korowicki (Geotek).	866 N Wilcrest	Houston, TX 77079	201–930–9305
William G. McCart		8144 Forest Dr	Covington, GA 30209	404–922–7777
William H. Holman		3213 W. Wheler St	Seattle, WA 98199	206–745–3482
William J. Liccardi	Attn: Kevin Korowicki (Geotek).	1676 Harper Dr	Ventura, CA 93004	201–930–9305
William T. Gerrard, DBA Air Space Radio Systems.		1700 S. Dixie Hwy.	Boca Raton, FL 33429	407–391–3100
William Walker		28 Old Fulton St	Brooklyn, NY 11201	407–682–7104
WKH Cell Inc	Attn: Robert S. Knoke	233 S. Stevenson, Ste 8, POB 309.	Iron Mountain, MI 49801	906–774–1120
X W Corporation	Attn: John Mitchell	801 W. Williamson Ave.	Fullerton, CA 92632	714–773–5545
Yvette A. Kay		3400 Chateau Blvd 204–A	Kenner, LA 70065	504–466–6527

ATTACHMENT C.—UPFRONT PAYMENT AND ACTIVITY UNIT SUMMARY

	Major trading area	Total population	
	M–01—New York	26,410,597	
Freq. block	**License No.**	**Activity units**	**Upfront payment**
A	YSM001A	1,012,525	$20,250.51
B	YSM001B	3,223,585	64,471.70
C	YSM001C	2,774,529	55,490.58
D	YSM001D	442,116	8,842.32
E	YSM001E	2,221,201	44,424.02
F	YSM001F	2,816,327	56,326.55
G	YSM001G	3,239,300	64,785.99
H	YSM001H	1,989,844	39,796.88
I	YSM001I	2,795,479	55,909.59
J	YSM001J	2,449,395	48,987.91
K	YSM001K	3,226,815	64,536.29
L	YSM001L	2,227,801	44,556.02
M	YSM001M	2,850,404	57,008.08
N	YSM001N	3,226,815	64,536.29
O	YSM001O	1,344,989	26,899.78
P	YSM001P	3,062,428	61,248.56
Q	YSM001Q	2,034,770	40,695.40
R	YSM001R	3,225,833	64,516.66
S	YSM001S	3,223,992	64,479.84
T	YSM001T	3,160,647	63,212.95

	Major trading area	Total population	
	M–02—Los Angeles-San Diego	19,145,232	
Freq. block	**License No.**	**Activity units**	**Upfront payment**
A	YSM002A	2,467,595	$49,351.89
B	YSM002B	3,408,888	68,177.77
C	YSM002C	2,301,323	46,026.46
D	YSM002D	3,824,069	76,481.38
E	YSM002E	2,466,883	49,337.66

Freq. block	License No.	Activity units	Upfront payment
F	YSM002F	3,630,815	72,616.29
G	YSM002G	1,626,039	32,520.78
H	YSM002H	159,004	3,180.08
I	YSM002I	2,406,406	48,128.12
J	YSM002J	994,608	19,892.17
K	YSM002K	1,432,785	28,655.69
L	YSM002L	284,749	5,694.98
M	YSM002M	2,309,766	46,195.31
N	YSM002N	2,406,406	48,128.12
O	YSM002O	936,065	18,721.29
P	YSM002P	788,731	15,774.61
Q	YSM002Q	2,307,900	46,158.01
R	YSM002R	661,343	13,226.86
S	YSM002S	3,249,194	64,983.88
T	YSM002T	1,204,623	24,092.45

	Major trading area	Total population	
	M–03—Chicago	12,069,700	

Freq. block	License No.	Activity units	Upfront payment
A	YSM003A	1,445,721	$28,914.41
B	YSM003B	1,223,656	24,473.12
C	YSM003C	282,378	5,647.57
D	YSM003D	1,431,791	28,635.82
E	YSM003E	1,445,721	28,914.41
F	YSM003F	278,752	5,575.03
G	YSM003G	1,041,321	20,826.42
H	YSM003H	1,215,490	24,309.81
I	YSM003I	766,903	15,338.06
J	YSM003J	1,431,791	28,635.82
K	YSM003K	282,378	5,647.57
L	YSM003L	768,253	15,365.06
M	YSM003M	1,445,721	28,914.41
N	YSM003N	1,431,791	28,635.82
O	YSM003O	1,445,721	28,914.41
P	YSM003P	1,445,721	28,914.41
Q	YSM003Q	1,431,791	28,635.82
R	YSM003R	1,431,791	28,635.82
S	YSM003S	1,340,908	26,818.16
T	YSM003T	1,445,721	28,914.41

	Major trading area	Total population	
	M–04—San Francisco-Oakland-San Jose	11,891,177	

Freq. block	License No.	Activity units	Upfront payment
A	YSM004A	2,307,719	$46,154.38
B	YSM004B	2,307,719	46,154.38
C	YSM004C	1,645,930	32,918.59
D	YSM004D	2,331,966	46,639.32
E	YSM004E	2,244,228	44,884.56
F	YSM004F	2,788,631	55,772.62
G	YSM004G	602,946	12,058.92
H	YSM004H	602,946	12,058.92
I	YSM004I	2,792,827	55,856.54
J	YSM004J	2,441,500	48,830.00
K	YSM004K	2,244,228	44,844.56
L	YSM004L	1,978,877	39,577.54
M	YSM004M	2,395,897	47,917.94
N	YSM004N	2,245,128	44,902.56
O	YSM004O	2,329,116	46,582.33
P	YSM004P	2,391,654	47,833.08
Q	YSM004Q	2,127,842	42,556.84
R	YSM004R	2,352,657	47,053.15
S	YSM004S	2,187,257	43,745.13
T	YSM004T	2,307,719	46,154.38

	Major trading area	Total population	
	M–05—DETROIT	10,001,009	
Freq. block	**License No.**	**Activity units**	**Upfront payment**
A	YSM005A	1,587,011	$31,740.22
B	YSM005B	1,567,416	31,348.31
C	YSM005C	1,532,177	30,643.55
D	YSM005D	2,500,252	50,005.05
E	YSM005E	1,475,680	29,513.59
F	YSM005F	403,746	8,074.93
G	YSM005G	1,496,121	29,922.42
H	YSM005H	2,492,143	49,842.87
I	YSM005I	410,154	8,203.08
J	YSM005J	2,500,252	50,005.05
K	YSM005K	2,486,162	49,723.24
L	YSM005L	2,500,252	50,005.05
M	YSM005M	2,500,252	50,005.05
N	YSM005N	2,500,252	50,005.05
O	YSM005O	1,566,990	31,339.81
P	YSM005P	1,618,420	32,368.41
Q	YSM005Q	2,500,252	50,005.05
R	YSM005R	2,500,252	50,005.05
S	YSM005S	2,500,252	50,005.05
T	YSM005T	2,500,252	50,005.05

	Major trading area	Total population	
	M–06–CHARLOTTE-GREENSBORO-GREENVILLE-RALEIGH	9,752,317	
Freq. block	**License No.**	**Activity units**	**Upfront payment**
A	YSM006A	1,198,108	$23,962.17
B	YSM006B	2,434,284	48,685.68
C	YSM006C	2,438,079	48,761.59
D	YSM006D	2,438,079	48,761.59
E	YSM006E	2,438,079	48,761.59
F	YSM006F	1,157,155	23,143.11
G	YSM006G	2,438,079	48,761.59
H	YSM006H	1,728,584	34,571.68
I	YSM006I	2,438,079	48,761.59
J	YSM006J	2,187,654	43,753.07
K	YSM006K	2,438,079	48,761.59
L	YSM006L	2,187,654	43,753.07
M	YSM006M	1,856,943	37,138.85
N	YSM006N	2,438,079	48,761.59
O	YSM006O	2,218,374	44,367.48
P	YSM006P	2,438,079	48,761.59
Q	YSM006Q	2,438,079	48,761.59
R	YSM006R	2,192,554	43,851.08
S	YSM006S	2,187,654	43,753.07
T	YSM006T	2,438,079	48,761.59

	Major trading area	Total population	
	M–07—DALLAS-FORT WORTH	9,694,157	
Freq. block	**License No.**	**Activity units**	**Upfront payment**
A	YSM007A	1,637,464	$32,749.29
B	YSM007B	1,660,745	33,214.90
C	YSM007C	1,683,982	33,679.63
D	YSM007D	1,660,745	33,214.90
E	YSM007E	1,660,745	33,214.90
F	YSM007F	1,660,745	33,214.90
G	YSM007G	1,574,241	31,484.82
H	YSM007H	1,759,551	35,191.02
I	YSM007I	1,660,745	33,214.90
J	YSM007J	1,225,646	24,512.91
K	YSM007K	1,865,397	37,307.94

Freq. block	License No.	Activity units	Upfront payment
L	YSM007L	1,660,745	33,214.90
M	YSM007M	1,225,646	24,512.91
N	YSM007N	1,658,425	33,168.49
O	YSM007O	1,420,915	28,418.29
P	YSM007P	1,660,745	33,214.90
Q	YSM007Q	1,318,980	26,379.60
R	YSM007R	1,936,418	38,728.36
S	YSM007S	1,805,476	36,109.51
T	YSM007T	1,660,745	33,214.90

	Major trading area	Total population	
	M–08—BOSTON-PROVIDENCE	9,452,712	

Freq. block	License No.	Activity units	Upfront payment
A	YSM008A	727,941	$14,558.81
B	YSM008B	888,247	17,764.94
C	YSM008C	900,524	18,010.47
D	YSM008D	1,219,706	24,394.12
E	YSM008E	1,200,288	24,005.76
F	YSM008F	742,458	14,849.15
G	YSM008G	1,400,541	28,010.82
H	YSM008H	562,426	11,248.52
I	YSM008I	492,301	9,846.01
J	YSM008J	299,853	5,997.06
K	YSM008K	1,412,812	28,256.24
L	YSM008L	1,242,021	24,840.42
M	YSM008M	1,514,806	30,296.12
N	YSM008N	1,510,679	30,213.57
O	YSM008O	1,457,184	29,143.69
P	YSM008P	1,555,125	31,102.50
Q	YSM008Q	1,371,030	27,420.59
R	YSM008R	900,524	18,010.47
S	YSM008S	1,410,935	28,218.70
T	YSM008T	492,301	9,846.01

	Major trading area	Total population	
	M–09—Philadelphia	8,927,748	

Freq. block	License No.	Activity units	Upfront payment
A	YSM009A	127,620	$2,552.39
B	YSM009B	825,830	16,516.59
C	YSM009C	986,642	19,732.84
D	YSM009D	1,682,205	33,644.10
E	YSM009E	1,402,831	28,056.63
F	YSM009F	849,361	16,987.22
G	YSM009G	2,231,937	44,638.74
H	YSM009H	858,629	17,172.58
I	YSM009I	289,743	5,794.85
J	YSM009J	880,999	17,619.98
K	YSM009K	1,023,025	20,460.50
L	YSM009L	1,074,726	21,494.53
M	YSM009M	1,402,831	28,056.63
N	YSM009N	962,125	19,242.50
O	YSM009O	129,146	2,582.91
P	YSM009P	971,800	19,436.00
Q	YSM009Q	1,014,699	20,293.99
R	YSM009R	1,010,658	20,213.16
S	YSM009S	1,014,699	20,293.99
T	YSM009T	2,231,937	44,638.74

	Major trading area	Total population	
	M–10—Washington-Baltimore	7,777,875	

Freq. block	License No.	Activity units	Upfront payment
A	YSM010A	937,320	$18,746.40
B	YSM010B	1,053,286	21,056.71
C	YSM010C	898,869	17,977.38
D	YSM010D	190,661	3,813.22
E	YSM010E	950,642	19,012.84
F	YSM010F	225,792	4,515.84
G	YSM010G	898,869	17,977.38
H	YSM010H	191,601	3,832.02
I	YSM010I	780,072	15,601.45
J	YSM010J	1,053,286	21,065.71
K	YSM010K	1,633,773	32,675.47
L	YSM010L	831,828	16,636.55
M	YSM010M	1,020,535	20,410.69
N	YSM010N	201,324	4,026.47
O	YSM010O	194,981	3,899.61
P	YSM010P	1,020,535	20,410.69
Q	YSM010Q	1,654,011	33,080.23
R	YSM010R	947,543	18,950.86
S	YSM010S	437,755	8,755.09
T	YSM010T	874,140	17,482.80

	Major trading area	Total population	
	M–11—Atlanta	6,942,084	

Freq. block	License No.	Activity units	Upfront payment
A	YSM011A	1,732,296	$34,645.93
B	YSM011B	706,680	14,133.59
C	YSM011C	1,117,145	22,342.91
D	YSM011D	1,360,532	27,210.64
E	YSM011E	1,119,517	22,390.34
F	YSM011F	1,208,024	24,160.48
G	YSM011G	1,015,652	20,313.03
H	YSM011H	975,635	19,512.71
I	YSM011I	1,451,475	29,029.49
J	YSM011J	1,115,874	22,317.49
K	YSM011K	1,075,388	21,507.76
L	YSM011L	1,209,248	24,184.95
M	YSM011M	933,480	18,669.59
N	YSM011N	1,119,517	22,390.34
O	YSM011O	749,033	14,980.65
P	YSM011P	1,117,145	22,342.91
Q	YSM011Q	1,115,838	22,316.75
R	YSM011R	674,801	13,496.02
S	YSM011S	1,735,521	34,710.42
T	YSM011T	1,117,145	22,342.91

	Major trading area	Total population	
	M–12—Minneapolis-St Paul	5,986,039	

Freq. block	License No.	Activity units	Upfront payment
A	YSM012A	1,496,510	$29,930.20
B	YSM012B	1,496,510	29,930.20
C	YSM012C	1,496,510	29,930.20
D	YSM012D	1,496,510	29,930.20
E	YSM012E	1,496,510	29,930.20
F	YSM012F	875,883	17,517.66
G	YSM012G	1,496,510	29,930.20
H	YSM012H	919,280	18,385.61
I	YSM012I	1,496,510	29,930.20
J	YSM012J	1,496,510	29,930.20
K	YSM012K	1,496,510	29,930.20
L	YSM012L	1,496,510	29,930.20
M	YSM012M	1,496,510	29,930.20
N	YSM012N	1,496,510	29,930.20
O	YSM012O	1,496,510	29,930.20
P	YSM012P	1,496,510	29,930.20

Freq. block	License No.	Activity units	Upfront payment
Q	YSM012Q	1,496,510	29,930.20
R	YSM012R	781,433	15,628.67
S	YSM012S	932,125	18,642.50
T	YSM012T	1,496,510	29,930.20

	Major trading area	Total population	
	M–13—Tampa-St. Petersburg-Orlando	5,417,788	

Freq. block	License No.	Activity units	Upfront payment
A	YSM013A	266,346	$5,326.93
B	YSM013B	867,457	17,349.13
C	YSM013C	580,270	11,605.59
D	YSM013D	927,723	18,554.45
E	YSM013E	829,619	16,592.39
F	YSM013F	561,970	11,239.40
G	YSM013G	824,121	16,482.43
H	YSM013H	322,507	6,450.13
I	YSM013I	935,686	18,713.72
J	YSM013J	820,565	16,411.29
K	YSM013K	740,880	14,817.60
L	YSM013L	706,171	14,123.41
M	YSM013M	724,676	14,493.57
N	YSM013N	1,078,071	21,561.41
O	YSM013O	121,626	2,432.53
P	YSM013P	784,982	15,699.63
Q	YSM013Q	562,468	11,249.36
R	YSM013R	557,515	11,150.30
S	YSM013S	582,325	11,646.49
T	YSM013T	1,354,447	27,088.94

	Major trading area	Total population	
	M–4—Houston	5,190,849	

Freq. block	License No.	Activity units	Upfront payment
A	YSM014A	498,090	$9,961.79
B	YSM014B	498,090	9,961.70
C	YSM014C	707,117	14,142.34
D	YSM014D	498,090	9,961.79
E	YSM014E	778,036	15,560.72
F	YSM014F	1,103,168	22,063.36
G	YSM014G	498,090	9,961.79
H	YSM014H	340,742	6,814.85
I	YSM014I	525,469	10,509.39
J	YSM014J	443,519	8,870.36
K	YSM014K	449,731	8,994.62
L	YSM014L	498,090	9,961.79
M	YSM014M	498,090	9,961.79
N	YSM014N	260,035	5,200.70
O	YSM014O	498,090	9,961.79
P	YSM014P	498,090	9,961.79
Q	YSM014Q	415,436	8,308.77
R	YSM014R	498,090	9,961.79
S	YSM014S	414,664	8,293.29
T	YSM014T	260,035	5,200.70

	Major trading area	Total population	
	M–15—Miami-Fort Lauderdale	5,136,581	

Freq. block	License No.	Activity units	Upfront payment
A	YSM015A	76,814	$1,536.29
B	YSM015B	194,752	3,895.05
C	YSM015C	560,844	11,216.89
D	YSM015D	208,682	4,173.64

Freq. block	License No.	Activity units	Upfront payment
E	YSM015E	487,985	9,759.70
F	YSM015F	356,930	7,138.60
G	YSM015G	205,004	4,100.09
H	YSM015H	286,976	5,739.52
I	YSM015I	603,644	12,072.87
J	YSM015J	487,985	9,759.70
K	YSM015K	208,682	4,173.64
L	YSM015L	404,274	8,085.48
M	YSM015M	404,087	8,081.73
N	YSM015N	601,648	12,032.95
O	YSM015O	40,191	803.81
P	YSM015P	404,214	8,084.28
Q	YSM015Q	655,547	13,110.94
R	YSM015R	365,992	7,319.83
S	YSM015S	485,971	9,719.43
T	YSM015T	892,725	17,854.50

	Major trading area	Total population	
	M–16—Cleveland	4,945,749	

Freq. block	License No.	Activity units	Upfront payment
A	YSM016A	1,236,437	$24,728.75
B	YSM016B	1,236,437	24,728.75
C	YSM016C	1,236,437	24,728.75
D	YSM016D	37,850	757.01
E	YSM016E	1,236,437	24,728.75
F	YSM016F	35,812	716.25
G	YSM016G	1,236,437	24,728.75
H	YSM016H	1,236,437	24,728.75
I	YSM016I	1,236,437	24,728.75
J	YSM016J	1,236,437	24,728.75
K	YSM016K	1,236,437	24,728.75
L	YSM016L	1,236,437	24,728.75
M	YSM016M	1,236,437	24,728.75
N	YSM016N	1,236,437	24,728.75
O	YSM016O	644,833	12,896.66
P	YSM016P	1,236,437	24,728.75
Q	YSM016Q	610,214	12,204.29
R	YSM016R	1,236,437	24,728.75
S	YSM016S	1,236,437	24,728.75
T	YSM016T	1,236,437	24,728.75

	Major trading area	Total population	
	M–17—New Orleans-Baton Rouge	4,925,269	

Freq. block	License No.	Activity units	Upfront payment
A	YSM017A	1,231,317	$24,626.35
B	YSM017B	1,231,317	24,626.35
C	YSM017C	1,231,317	24,626.35
D	YSM017D	1,231,317	24,626.35
E	YSM017E	1,231,317	24,626.35
F	YSM017F	394,632	7,892.63
G	YSM017G	1,231,317	24,626.35
H	YSM017H	630,237	12,604.75
I	YSM017I	1,231,317	24,626.35
J	YSM017J	1,231,317	24,626.35
K	YSM017K	1,231,317	24,626.35
L	YSM017L	1,231,317	24,626.35
M	YSM017M	1,231,317	24,626.35
N	YSM017N	1,231,317	24,626.35
O	YSM017O	1,231,317	24,626.35
P	YSM017P	1,231,317	24,626.35
Q	YSM017Q	1,231,317	24,626.35
R	YSM017R	1,231,317	24,626.35
S	YSM017S	954,415	19,088.30
T	YSM017T	948,613	18,972.26

	Major trading area	Total population	
	M–18—Cincinnati-Dayton	4,716,665	

Freq. block	License No.	Activity units	Upfront payment
A	YSM018A	1,179,166	$23,583.33
B	YSM018B	1,179,166	23,583.33
C	YSM018C	1,179,166	23,583.33
D	YSM018D	1,179,166	23,583.33
E	YSM018E	1,179,166	23,583.33
F	YSM018F	253,471	5,069.41
G	YSM018G	1,179,166	23,583.33
H	YSM018H	553,775	11,075.49
I	YSM018I	1,086,022	21,720.45
J	YSM018J	1,179,166	23,583.33
K	YSM018K	1,179,166	23,583.33
L	YSM018L	1,179,166	23,583.33
M	YSM018M	1,179,166	23,583.33
N	YSM018N	1,179,166	23,583.33
O	YSM018O	1,179,166	23,583.33
P	YSM018P	1,179,166	23,583.33
Q	YSM018Q	756,916	15,138.33
R	YSM018R	1,179,166	23,583.33
S	YSM018S	1,179,166	23,583.33
T	YSM018T	1,179,166	23,583.33

	Major trading area	Total population	
	M–19—St Louis	4,663,926	

Freq. block	License No.	Activity units	Upfront payment
A	YSM019A	1,165,982	$23,319.63
B	YSM019B	1,165,982	23,319.63
C	YSM019C	1,164,237	23,284.74
D	YSM019D	1,165,982	23,319.63
E	YSM019E	1,165,982	23,319.63
F	YSM019F	508,937	10,178.74
G	YSM019G	1,165,982	23,319.63
H	YSM019H	482,080	9,641.59
I	YSM019I	1,165,982	23,319.63
J	YSM019J	1,165,982	23,319.63
K	YSM019K	1,164,237	23,284.74
L	YSM019L	1,165,982	23,319.63
M	YSM019M	1,165,982	23,319.63
N	YSM019N	1,165,982	23,319.63
O	YSM019O	1,165,982	23,319.63
P	YSM019P	1,165,982	23,319.63
Q	YSM019Q	1,165,982	23,319.63
R	YSM019R	1,165,982	23,319.63
S	YSM019S	1,144,427	22,888.54
T	YSM019T	1,165,982	23,319.63

	Major trading area	Total population	
	M–20—Milwaukee	4,541,432	

Freq. block	License No.	Activity units	Upfront payment
A	YSM020A	1,135,358	$22,707.16
B	YSM020B	1,135,358	22,707.16
C	YSM020C	1,110,819	22,216.38
D	YSM020D	1,135,358	22,707.16
E	YSM020E	1,135,358	22,707.16
F	YSM020F	377,942	7,558.84
G	YSM020G	741,915	14,838.30
H	YSM020H	1,135,358	22,707.16
I	YSM020I	1,084,873	21,697.47
J	YSM020J	1,135,358	22,707.16
K	YSM020K	1,110,819	22,216.38

Freq. block	License No.	Activity units	Upfront payment
L	YSM020L	1,084,873	21,697.47
M	YSM020M	1,135,358	22,707.16
N	YSM020N	1,135,358	22,707.16
O	YSM020O	1,135,358	22,707.16
P	YSM020P	1,135,358	22,707.16
Q	YSM020Q	1,135,358	22,707.16
R	YSM020R	1,132,675	22,653.50
S	YSM020S	879,457	17,589.14
T	YSM020T	1,135,358	22,707.16

	Major trading area	Total population	
	M–21—Pittsburgh	4,102,766	

Freq. block	License No.	Activity units	Upfront payment
A	YSM021A	1,025,246	$20,504.92
B	YSM021B	1,025,692	20,513.83
C	YSM021C	1,025,692	20,513.83
D	YSM021D	958,981	19,179.62
E	YSM021E	1,025,692	20,513.83
F	YSM021F	164,293	3,285.86
G	YSM021G	1,025,692	20,513.83
H	YSM021H	1,025,692	20,513.83
I	YSM021I	1,025,692	20,513.83
J	YSM021J	1,025,692	20,513.83
K	YSM021K	1,025,692	20,513.83
L	YSM021L	1,025,692	20,513.83
M	YSM021M	1,025,692	20,513.83
N	YSM021N	1,025,692	20,504.92
O	YSM021O	1,025,246	20,513.83
P	YSM021P	506,399	10,127.98
Q	YSM021Q	1,025,692	20,513.83
R	YSM021R	1,025,692	20,513.83
S	YSM021S	1,025,692	20,513.83
T	YSM021T	1,025,692	20,513.83

	Major trading area	Total population	
	M–22—Denver	3,880,637	

Freq. block	License No.	Activity units	Upfront payment
A	YSM022A	970,159	$19,403.19
B	YSM022B	970,159	19,403.19
C	YSM022C	970,159	19,403.19
D	YSM022D	970,159	19,403.19
E	YSM022E	970,159	19,403.19
F	YSM022F	292,921	5,858.41
G	YSM022G	970,159	19,403.19
H	YSM022H	294,962	5,899.24
I	YSM022I	527,801	10,556.01
J	YSM022J	546,926	10,938.52
K	YSM022K	970,159	19,403.19
L	YSM022L	970,159	19,403.19
M	YSM022M	970,158	10,959.17
N	YSM022N	970,159	19,403.19
O	YSM022O	970,159	19,403.19
P	YSM022P	970,159	19,403.19
Q	YSM022Q	970,159	19,403.19
R	YSM022R	970,159	19,403.19
S	YSM022S	970,159	19,403.19
T	YSM022T	294,800	5,896.00

	Major trading area	Total population	
	M–23—Richmond-Norfolk	3,846,210	

Freq. block	License No.	Activity units	Upfront payment
A	YSM023A	908,771	$18,175.42
B	YSM023B	961,553	19,231.05
C	YSM023C	961,553	19,231.05
D	YSM023D	946,739	18,934.78
E	YSM023E	961,553	19,231.05
F	YSM023F	142,985	2,859.70
G	YSM023G	961,553	19,231.05
H	YSM023H	946,739	18,934.78
I	YSM023I	961,553	19,231.05
J	YSM023J	961,553	19,231.05
K	YSM023K	961,553	19,231.05
L	YSM023L	369,134	7,382.69
M	YSM023M	575,555	11,511.11
N	YSM023N	946,739	18,934.78
O	YSM023O	650,400	13,008.01
P	YSM023P	961,553	19,231.05
Q	YSM023Q	961,553	19,231.05
R	YSM023R	961,553	19,231.05
S	YSM023S	961,553	19,231.05
T	YSM023T	961,553	19,231.05

	Major trading area	Total population	
	M–24—Seattle	3,827,175	

Freq. block	License No.	Activity units	Upfront payment
A	YSM024A	300,948	$6,018.96
B	YSM024B	801,726	16,034.53
C	YSM024C	910,698	18,213.96
D	YSM024D	956,794	19,135.88
E	YSM024E	390,456	7,809.12
F	YSM024F	142,139	2,842.79
G	YSM024G	475,706	9,514.12
H	YSM024H	137,813	2,756.26
I	YSM024I	352,074	7,041.48
J	YSM024J	956,794	19,135.88
K	YSM024K	495,872	9,917.45
L	YSM024L	475,706	9,514.12
M	YSM024M	475,706	9,514.12
N	YSM024N	956,794	19,135.88
O	YSM024O	762,477	15,249.54
P	YSM024P	472,366	9,447.32
Q	YSM024Q	956,794	19,135.88
R	YSM024R	259,790	5,195.81
S	YSM024S	762,477	15,249.54
T	YSM024T	956,794	19,135.88

	Major trading area	Total population	
	M–25—Puerto Rico-U.S. Virgin Islands	3,623,846	

Freq. block	License No.	Activity units	Upfront payment
A	YSM025A	905,962	$18,119.23
B	YSM025B	905,962	18,119.23
C	YSM025C	905,962	18,119.23
D	YSM025D	905,962	18,119.23
E	YSM025E	905,962	18,119.23
F	YSM025F	905,962	18,119.23
G	YSM025G	905,962	18,119.23
H	YSM025H	905,962	18,119.23
I	YSM025I	905,962	18,119.23
J	YSM025J	905,962	18,119.23
K	YSM025K	905,962	18,119.23
L	YSM025L	905,962	18,119.23
M	YSM025M	905,962	18,119.23
N	YSM025N	905,962	18,119.23
O	YSM025O	905,962	18,119.23
P	YSM025P	905,962	18,119.23

Freq. block	License No.	Activity units	Upfront payment
Q	YSM025Q	905,962	18,119.23
R	YSM025R	905,962	18,119.23
S	YSM025S	905,962	18,119.23
T	YSM025T	905,962	18,119.23

	Major trading area	Total population	
	M–26—Louisville-Lexington-Evansville	3,556,648	

Freq. block	License No.	Activity units	Upfront payment
A	YSM026A	889,162	$17,783.24
B	YSM026B	889,162	17,783.24
C	YSM026C	889,162	17,783.24
D	YSM026D	889,162	17,783.24
E	YSM026E	889,162	17,783.24
F	YSM026F	479,889	9,597.78
G	YSM026G	882,540	17,650.80
H	YSM026H	882,540	17,650.80
I	YSM026I	889,162	17,783.24
J	YSM026J	889,162	17,783.24
K	YSM026K	889,162	17,783.24
L	YSM026L	889,162	17,783.24
M	YSM026M	635,792	12,715.85
N	YSM026N	889,162	17,783.24
O	YSM026O	882,540	17,650.80
P	YSM026P	889,162	17,783.24
Q	YSM026Q	889,162	17,783.24
R	YSM026R	889,162	17,783.24
S	YSM026S	889,162	17,783.24
T	YSM026T	889,162	17,783.24

	Major trading area	Total population	
	M–27—Phoenix	3,510,140	

Freq. block	License No.	Activity units	Upfront payment
A	YSM027A	877,535	$17,550.70
B	YSM027B	877,535	17,550.70
C	YSM027C	877,535	17,550.70
D	YSM027D	656,524	13,130.48
E	YSM027E	877,535	17,550.70
F	YSM027F	182,922	3,658.44
G	YSM027G	877,535	17,550.70
H	YSM027H	171,954	3,439.09
I	YSM027I	877,535	17,550.70
J	YSM027J	877,535	17,550.70
K	YSM027K	843,326	16,866.52
L	YSM027L	877,535	17,550.70
M	YSM027M	357,710	7,154.20
N	YSM027N	877,535	17,550.70
O	YSM027O	877,535	17,550.70
P	YSM027P	171,954	3,439.09
Q	YSM027Q	357,684	7,153.68
R	YSM027R	171,954	3,439.09
S	YSM027S	171,954	3,439.09
T	YSM027T	485,856	9,717.12

	Major trading area	Total population	
	M–28—Memphis-Jackson	3,465,226	

Freq. block	License No.	Activity units	Upfront payment
A	YSM028A	866,307	$17,326.13
B	YSM028B	866,307	17,326.13
C	YSM028C	866,307	17,326.13
D	YSM028D	866,307	17,326.13

Freq. block	License No.	Activity units	Upfront payment
E	YSM028E	866,307	17,326.13
F	YSM028F	488,176	9,763.51
G	YSM028G	623,483	12,469.66
H	YSM028H	536,271	10,725.42
I	YSM028I	866,307	17,326.13
J	YSM028J	866,307	17,326.13
K	YSM028K	866,307	17,326.13
L	YSM028L	866,307	17,326.13
M	YSM028M	866,307	17,326.13
N	YSM028N	866,307	17,326.13
O	YSM028O	622,797	12,455.94
P	YSM028P	866,307	17,326.13
Q	YSM028Q	866,307	17,326.13
R	YSM028R	533,739	10,674.77
S	YSM028S	619,993	12,399.86
T	YSM028T	866,307	17,326.13

	Major trading area	Total population	
	M–29—Birmingham	3,244,076	

Freq. block	License No.	Activity units	Upfront payment
A	YSM029A	811,019	$16,220.38
B	YSM029B	809,776	16,195.52
C	YSM029C	811,019	16,220.38
D	YSM029D	811,019	16,220.38
E	YSM029E	811,019	16,220.38
F	YSM029F	514,765	10,295.30
G	YSM029G	809,776	16,195.52
H	YSM029H	809,776	16,195.52
I	YSM029I	811,019	16,220.38
J	YSM029J	811,019	16,220.38
K	YSM029K	811,019	16,220.38
L	YSM029L	811,019	16,220.38
M	YSM029M	809,776	16,195.52
N	YSM029N	811,019	16,220.38
O	YSM029O	809,776	16,195.52
P	YSM029P	811,019	16,220.38
Q	YSM029Q	811,019	16,220.38
R	YSM029R	811,019	16,220.38
S	YSM029S	811,019	16,220.38
T	YSM029T	811,019	16,220.38

	Major trading area	Total population	
	M–30—Portland	3,059,948	

Freq. block	License No.	Activity units	Upfront payment
A	YSM030A	764,987	$15,299.74
B	YSM030B	764,987	15,229.74
C	YSM030C	764,987	15,299.74
D	YSM030D	764,987	15,299.74
E	YSM030E	764,987	15,299.74
F	YSM030F	764,987	15,299.74
G	YSM030G	764,987	15,299.74
H	YSM030H	257,498	5,149.96
I	YSM030I	764,987	15,299.74
J	YSM030J	764,987	15,299.74
K	YSM030K	764,987	15,299.74
L	YSM030L	764,987	15,299.74
M	YSM030M	764,987	15,299.74
N	YSM030N	764,987	15,299.74
O	YSM030O	764,987	15,299.74
P	YSM030P	764,987	15,299.74
Q	YSM030Q	764,987	15,299.74
R	YSM030R	223,650	4,473.00
S	YSM030S	764,987	15,299.74
T	YSM030T	764,987	15,299.74

	Major trading area	Total population	
	M–31—Indianapolis	3,017,475	
Freq. block	License No.	Activity units	Upfront payment
A	YSM031A	754,369	$15,087.38
B	YSM031B	754,369	15,087.38
C	YSM031C	749,692	14,993.83
D	YSM031D	754,369	15,087.38
E	YSM031E	754,369	15,087.38
F	YSM031F	282,812	5,656.23
G	YSM031G	754,369	15,087.38
H	YSM031H	271,928	5,438.56
I	YSM031I	754,369	15,087.38
J	YSM031J	754,369	15,087.38
K	YSM031K	437,374	8,747.49
L	YSM031L	754,369	15,087.38
M	YSM031M	754,369	15,087.38
N	YSM031N	754,369	15,087.38
O	YSM031O	754,369	15,087.38
P	YSM031P	754,369	15,087.38
Q	YSM031Q	754,369	15,087.38
R	YSM031R	754,369	15,087.38
S	YSM031S	754,369	15,087.38
T	YSM031T	754,369	15,087.38

	Major trading area	Total population	
	M–32—Des Moines-Quad Cities	3,006,139	
Freq. block	License No.	Activity units	Upfront payment
A	YSM032A	751,535	$15,030.70
B	YSM032B	751,535	15,030.70
C	YSM032C	573,398	11,467.93
D	YSM032D	751,535	15,030.70
E	YSM032E	751,535	15,030.70
F	YSM032F	452,708	9,054.17
G	YSM032G	751,535	15,030.70
H	YSM032H	751,535	15,030.70
I	YSM032I	751,535	15,030.70
J	YSM032J	751,535	15,030.70
K	YSM032K	573,396	11,467.93
L	YSM032L	751,535	15,030.70
M	YSM032M	751,535	15,030.70
N	YSM032N	751,535	15,030.70
O	YSM032O	751,535	15,030.70
P	YSM032P	751,535	15,030.70
Q	YSM032Q	751,535	15,030.70
R	YSM032R	751,535	15,030.70
S	YSM032S	751,535	15,030.70
T	YSM032T	751,535	15,030.70

	Major trading area	Total population	
	M–33—San Antonio	2,988,524	
Freq. block	License No.	Activity units	Upfront payment
A	YSM033A	746,631	$14,932.62
B	YSM033B	746,631	14,932.62
C	YSM033C	328,139	6,562.78
D	YSM033D	440,386	8,807.71
E	YSM033E	430,515	8,610.30
F	YSM033F	315,114	6,302.27
G	YSM033G	746,631	14,932.62
H	YSM033H	657,369	13,147.37
I	YSM033I	433,731	8,674.62
J	YSM033J	746,631	14,932.62
K	YSM033K	746,631	14,932.62

Freq. block	License No.	Activity units	Upfront payment
L	YSM033L	424,679	8,493.59
M	YSM033M	746,631	14,932.62
N	YSM033N	430,242	8,604.84
O	YSM033O	440,386	8,807.71
P	YSM033P	746,631	14,932.62
Q	YSM033Q	746,631	14,932.62
R	YSM033R	746,631	14,932.62
S	YSM033S	746,631	14,932.62
T	YSM033T	746,631	14,932.62

	Major trading area	Total population	
	M–34—Kansas City	2,913,304	

Freq. block	License No.	Activity units	Upfront payment
A	YSM034A	728,326	$14,566.52
B	YSM034B	728,326	14,566.52
C	YSM034C	728,326	14,566.52
D	YSM034D	728,326	14,566.52
E	YSM034E	728,326	14,566.52
F	YSM034F	313,945	6,278.89
G	YSM034G	728,326	14,566.52
H	YSM034H	232,884	4,657.68
I	YSM034I	728,326	14,566.52
J	YSM034J	728,326	14,566.52
K	YSM034K	728,326	14,566.52
L	YSM034L	728,326	14,566.52
M	YSM034M	728,326	14,566.52
N	YSM034N	728,326	14,566.52
O	YSM034O	728,326	14,566.52
P	YSM034P	728,326	14,566.52
Q	YSM034Q	728,326	14,566.52
R	YSM034R	728,326	14,566.52
S	YSM034S	238,028	4,760.56
T	YSM034T	728,326	14,566.52

	Major trading area	Total population	
	M–35—Buffalo-Rochester	2,777,046	

Freq. block	License No.	Activity units	Upfront payment
A	YSM035A	694,262	$13,885.23
B	YSM035B	694,262	13,885.23
C	YSM035C	694,262	13,885.23
D	YSM035D	101,401	2,028.02
E	YSM035E	140,979	2,819.57
F	YSM035F	689,846	13,796.92
G	YSM035G	694,262	13,885.23
H	YSM035H	460,760	9,215.20
I	YSM035I	694,262	13,885.23
J	YSM035J	694,262	13,885.23
K	YSM035K	302,041	6,040.83
L	YSM035L	694,262	13,885.23
M	YSM035M	694,262	13,885.23
N	YSM035N	694,262	13,885.23
O	YSM035O	694,262	13,885.23
P	YSM035P	694,262	13,885.23
Q	YSM035Q	694,262	13,885.23
R	YSM035R	694,262	13,885.23
S	YSM035S	694,262	13,885.23
T	YSM035T	694,262	13,885.23

	Major trading area	Total population	
	M–36—Salt Lake City	2,573,372	

Freq. block	License No.	Activity units	Upfront payment
A	YSM036A	643,343	$12,866.86
B	YSM036B	643,343	12,866.86
C	YSM036C	643,343	12,866.86
D	YSM036D	643,343	12,866.86
E	YSM036E	643,343	12,866.86
F	YSM036F	229,981	4,599.62
G	YSM036G	643,343	12,866.86
H	YSM036H	294,735	5,894.70
I	YSM036I	643,343	12,866.86
J	YSM036J	643,343	12,866.86
K	YSM036K	643,343	12,866.86
L	YSM036L	430,544	8,610.67
M	YSM036M	643,343	12,866.86
N	YSM036N	643,343	12,866.86
O	YSM036O	428,644	8,572.87
P	YSM036P	643,343	12,866.86
Q	YSM036Q	643,343	12,866.86
R	YSM036R	643,343	12,866.86
S	YSM036S	294,735	5,894.70
T	YSM036T	643,343	12,866.86

	Major trading area	Total population	
	M–37—Jacksonville	2,274,933	

Freq. block	License No.	Activity units	Upfront payment
A	YSM037A	149,942	$2,998.84
B	YSM037B	568,733	11,374.67
C	YSM037C	568,733	11,374.67
D	YSM037D	568,733	11,374.67
E	YSM037E	568,733	11,374.67
F	YSM037F	289,769	5,795.38
G	YSM037G	568,733	11,374.67
H	YSM037H	149,942	2,998.84
I	YSM037I	357,380	7,147.61
J	YSM037J	568,733	11,374.67
K	YSM037K	568,733	11,374.67
L	YSM037L	356,862	7,137.23
M	YSM037M	283,263	5,665.27
N	YSM037N	568,733	11,374.67
O	YSM037O	192,683	3,853.66
P	YSM037P	568,733	11,374.67
Q	YSM037Q	568,733	11,374.67
R	YSM037R	356,862	7,137.23
S	YSM037S	568,733	11,374.67
T	YSM037T	568,733	11,374.67

	Major trading area	Total population	
	M–38—Columbus	2,145,561	

Freq. block	License No.	Activity units	Upfront payment
A	YSM038A	536,390	$10,727.81
B	YSM038B	536,390	10,727.81
C	YSM038C	536,390	10,727.81
D	YSM038D	516,461	10,329.23
E	YSM038E	536,390	10,727.81
F	YSM038F	135,119	2,702.37
G	YSM038G	536,390	10,727.81
H	YSM038H	214,121	4,282.43
I	YSM038I	536,390	10,727.81
J	YSM038J	536,390	10,727.81
K	YSM038K	536,390	10,727.81
L	YSM038L	536,390	10,727.81
M	YSM038M	536,390	10,727.81
N	YSM038N	536,390	10,727.81
O	YSM038O	536,390	10,727.81
P	YSM038P	536,390	10,727.81

Freq. block	License No.	Activity units	Upfront payment
Q	YSM038Q	536,390	10,727.81
R	YSM038R	536,390	10,727.81
S	YSM038S	536,390	10,727.81
T	YSM038T	536,390	10,727.81

	Major trading area	Total population	
	M–39—El Paso-Albuquerque	2,113,890	

Freq. block	License No.	Activity units	Upfront payment
A	YSM039A	528,473	$10,569.45
B	YSM039B	528,473	10,569.45
C	YSM039C	528,473	10,569.45
D	YSM039D	528,473	10,569.45
E	YSM039E	528,473	10,569.45
F	YSM039F	207,337	4,146.75
G	YSM039G	528,473	10,569.45
H	YSM039H	494,630	9,892.61
I	YSM039I	528,473	10,569.45
J	YSM039J	528,473	10,569.45
K	YSM039K	528,473	10,569.45
L	YSM039L	528,473	10,569.45
M	YSM039M	528,473	10,569.45
N	YSM039N	528,473	10,569.45
O	YSM039O	528,473	10,569.45
P	YSM039P	494,630	9,892.61
Q	YSM039Q	528,473	10,569.45
R	YSM039R	494,630	9,892.61
S	YSM039S	494,630	9,892.61
T	YSM039T	528,473	10,569.45

	Major trading area	Total population	
	M–40—Little Rock	2,061,667	

Freq. block	License No.	Activity units	Upfront payment
A	YSM040A	512,917	$10,258.34
B	YSM040B	512,917	10,258.34
C	YSM040C	512,917	10,258.34
D	YSM040D	512,917	10,258.34
E	YSM040E	512,917	10,258.34
F	YSM040F	382,472	7,649.45
G	YSM040G	512,917	10,258.34
H	YSM040H	353,532	7,070.65
I	YSM040I	512,917	10,258.34
J	YSM040J	512,917	10,258.34
K	YSM040K	512,917	10,258.34
L	YSM040L	512,917	10,258.34
M	YSM040M	512,917	10,258.34
N	YSM040N	512,917	10,258.34
O	YSM040O	512,917	10,258.34
P	YSM040P	512,917	10,258.34
Q	YSM040Q	512,917	10,258.34
R	YSM040R	353,532	7,070.65
S	YSM040S	512,917	10,258.34
T	YSM040T	512,917	10,258.34

	Major trading area	Total population	
	M–41—Oklahoma City	1,877,478	

Freq. block	License No.	Activity units	Upfront payment
A	YSM041A	469,370	$9,387.39
B	YSM041B	469,370	9,387.39
C	YSM041C	469,370	9,387.39
D	YSM041D	469,370	9,387.39

Freq. block	License No.	Activity units	Upfront payment
E	YSM041E	469,370	9,387.39
F	YSM041F	239,695	4,793.90
G	YSM041G	469,370	9,387.39
H	YSM041H	469,370	9,387.39
I	YSM041I	469,370	9,387.39
J	YSM041J	469,370	9,387.39
K	YSM041K	469,370	9,387.39
L	YSM041L	469,370	9,387.39
M	YSM041M	469,370	9,387.39
N	YSM041N	469,370	9,387.39
O	YSM041O	466,927	9,338.54
P	YSM041P	469,370	9,387.39
Q	YSM041Q	468,672	9,373.44
R	YSM041R	469,370	9,387.39
S	YSM041S	469,370	9,387.39
T	YSM041T	469,370	9,387.39

	Major trading area	Total population	
	M–42—Spokane-Billings	1,863,335	

Freq. block	License No.	Activity units	Upfront payment
A	YSM042A	359,522	$7,190.44
B	YSM042B	465,821	9,316.42
C	YSM042C	465,821	9,316.42
D	YSM042D	465,821	9,316.42
E	YSM042E	465,821	9,316.42
F	YSM042F	319,351	6,387.03
G	YSM042G	465,821	9,316.42
H	YSM042H	319,351	6,387.03
I	YSM042I	465,821	9,316.42
J	YSM042J	465,821	9,316.42
K	YSM042K	465,821	9,316.42
L	YSM042L	465,821	9,316.42
M	YSM042M	465,821	9,316.42
N	YSM042N	465,821	9,316.42
O	YSM042O	465,821	9,316.42
P	YSM042P	465,821	9,316.42
Q	YSM042Q	465,821	9,316.42
R	YSM042R	359,522	7,190.44
S	YSM042S	465,821	9,316.42
T	YSM042T	465,821	9,316.42

	Major trading area	Total population	
	M–43—Nashville	1,767,391	

Freq. block	License No.	Activity units	Upfront payment
A	YSM043A	441,848	$8,836.96
B	YSM043B	441,848	8,836.96
C	YSM043C	225,885	4,517.69
D	YSM043D	441,848	8,836.96
E	YSM043E	441,848	8,836.96
F	YSM043F	146,650	2,933.00
G	YSM043G	135,349	2,706.97
H	YSM043H	131,371	2,627.41
I	YSM043I	441,848	8,836.96
J	YSM043J	441,848	8,836.96
K	YSM043K	441,848	8,836.96
L	YSM043L	441,848	8,836.96
M	YSM043M	133,948	2,678.96
N	YSM043N	441,848	8,836.96
O	YSM043O	133,948	2,678.96
P	YSM043P	441,848	8,836.96
Q	YSM043Q	237,086	4,741.71
R	YSM043R	441,848	8,836.96
S	YSM043S	441,848	8,836.96
T	YSM043T	234,400	4,688.01

	Major trading area	Total population	
	M–44—Knoxville	1,721,911	

Freq. block	License No.	Activity units	Upfront payment
A	YSM044A	430,478	$8,609.56
B	YSM044B	430,478	8,609.56
C	YSM044C	430,478	8,609.56
D	YSM044D	430,478	8,609.56
E	YSM044E	430,478	8,609.56
F	YSM044F	133,631	2,672.62
G	YSM044G	272,060	5,441.21
H	YSM044H	272,060	5,441.21
I	YSM044I	430,478	8,609.56
J	YSM044J	430,478	8,609.56
K	YSM044K	430,478	8,609.56
L	YSM044L	430,478	8,609.56
M	YSM044M	272,060	5,441.21
N	YSM044N	430,478	8,609.56
O	YSM044O	272,060	5,441.21
P	YSM044P	430,478	8,609.56
Q	YSM044Q	430,478	8,609.56
R	YSM044R	430,478	8,609.56
S	YSM044S	430,478	8,609.56
T	YSM044T	430,478	8,609.56

	Major trading area	Total population	
	M–45—Omaha	1,659,273	

Freq. block	License No.	Activity units	Upfront payment
A	YSM045A	414,818	$8,296.37
B	YSM045B	414,818	8,296.37
C	YSM045C	414,818	8,296.37
D	YSM045D	414,818	8,296.37
E	YSM045E	414,818	8,296.37
F	YSM045F	181,695	3,633.89
G	YSM045G	414,818	8,296.37
H	YSM045H	414,818	8,296.37
I	YSM045I	414,818	8,296.37
J	YSM045J	414,818	8,296.37
K	YSM045K	414,818	8,296.37
L	YSM045L	414,818	8,296.37
M	YSM045M	414,818	8,296.37
N	YSM045N	414,818	8,296.37
O	YSM045O	414,818	8,296.37
P	YSM045P	414,818	8,296.37
Q	YSM045Q	414,818	8,296.37
R	YSM045R	414,818	8,296.37
S	YSM045S	414,818	8,296.37
T	YSM045T	414,818	8,296.37

	Major trading area	Total population	
	M–46—Wichita	1,124,174	

Freq. block	License No.	Activity units	Upfront payment
A	YSM046A	281,044	$5,620.87
B	YSM046B	281,044	5,620.87
C	YSM046C	281,044	5,620.87
D	YSM046D	281,044	5,620.87
E	YSM046E	281,044	5,620.87
F	YSM046F	159,444	3,188.88
G	YSM046G	281,044	5,620.87
H	YSM046H	281,044	5,620.87
I	YSM046I	281,044	5,620.87
J	YSM046J	281,044	5,620.87
K	YSM046K	281,044	5,620.87

Freq. block	License No.	Activity units	Upfront payment
L	YSM046L	281,044	5,620.87
M	YSM046M	281,044	5,620.87
N	YSM046N	281,044	5,620.87
O	YSM046O	281,044	5,620.87
P	YSM046P	281,044	5,620.87
Q	YSM046Q	281,044	5,620.87
R	YSM046R	281,044	5,620.87
S	YSM046S	281,044	5,620.87
T	YSM046T	281,044	5,620.87

	Major trading area	Total population	
	M–47—Honolulu	1,108,229	

Freq. block	License No.	Activity units	Upfront payment
A	YSM047A	277,025	$5,540.50
B	YSM047B	277,025	5,540.50
C	YSM047C	277,025	5,540.50
D	YSM047D	277,025	5,540.50
E	YSM047E	277,025	5,540.50
F	YSM047F	67,967	1,359.34
G	YSM047G	277,025	5,540.50
H	YSM047H	67,967	1,359.34
I	YSM047I	277,025	5,540.50
J	YSM047J	67,967	1,359.34
K	YSM047K	277,025	5,540.50
L	YSM047L	277,025	5,540.50
M	YSM047M	277,025	5,540.50
N	YSM047N	277,025	5,540.50
O	YSM047O	277,025	5,540.50
P	YSM047P	277,025	5,540.50
Q	YSM047Q	277,025	5,540.50
R	YSM047R	277,025	5,540.50
S	YSM047S	277,025	5,540.50
T	YSM047T	277,025	5,540.50

	Major trading area	Total population	
	M–48—Tulsa	1,096,396	

Freq. block	License No.	Activity units	Upfront payment
A	YSM048A	274,099	$5,481.98
B	YSM048B	274,099	5,481.98
C	YSM048C	274,099	5,481.98
D	YSM048D	274,099	5,481.98
E	YSM048E	274,099	5,481.98
F	YSM048F	72,304	1,446.08
G	YSM048G	274,099	5,481.98
H	YSM048H	274,099	5,481.98
I	YSM048I	274,099	5,481.98
J	YSM048J	274,099	5,481.98
K	YSM048K	274,099	5,481.98
L	YSM048L	274,099	5,481.98
M	YSM048M	274,099	5,481.98
N	YSM048N	274,099	5,481.98
O	YSM048O	274,099	5,481.98
P	YSM048P	274,099	5,481.98
Q	YSM048Q	274,099	5,481.98
R	YSM048R	274,099	5,481.98
S	YSM048S	274,099	5,481.98
T	YSM048T	274,099	5,481.98

	Major trading area	Total population	
	M–49—Alaska	550,043	

Freq. block	License No.	Activity units	Upfront payment
A	YSM049A	137,511	$2,750.22
B	YSM049B	137,511	2,750.22
C	YSM049C	137,511	2,750.22
D	YSM049D	137,511	2,750.22
E	YSM049E	137,511	2,750.22
F	YSM049F	137,511	2,750.22
G	YSM049G	137,511	2,750.22
H	YSM049H	137,511	2,750.22
I	YSM049I	137,511	2,750.22
J	YSM049J	137,511	2,750.22
K	YSM049K	137,511	2,750.22
L	YSM049L	137,511	2,750.22
M	YSM049M	137,511	2,750.22
N	YSM049N	137,511	2,750.22
O	YSM049O	137,511	2,750.22
P	YSM049P	137,511	2,750.22
Q	YSM049Q	137,511	2,750.22
R	YSM049R	137,511	2,750.22
S	YSM049S	137,511	2,750.22
T	YSM049T	137,511	2,750.22

	Major trading area	Total population	
	M–50—Guam-Northern Mariana Islands	176,00	

Freq. block	License No.	Activity units	Upfront payment
A	YSM050A	44,000	$880.00
B	YSM050B	44,000	880.00
C	YSM050C	44,000	880.00
D	YSM050D	44,000	880.00
E	YSM050E	44,000	880.00
F	YSM050F	44,000	880.00
G	YSM050G	44,000	880.00
H	YSM050H	44,000	880.00
I	YSM050I	44,000	880.00
J	YSM050J	44,000	880.00
K	YSM050K	44,000	880.00
L	YSM050L	44,000	880.00
M	YSM050M	44,000	880.00
N	YSM050N	44,000	880.00
O	YSM050O	44,000	880.00
P	YSM050P	44,000	880.00
Q	YSM050Q	44,000	880.00
R	YSM050R	44,000	880.00
S	YSM050S	44,000	880.00
T	YSM050T	44,000	880.00

	Major trading area	Total population	
	M–51—American Samoa	47,000	

Freq. block	License No.	Activity units	Upfront payment
A	YSM051A	11,750	$235.00
B	YSM051B	11,750	235.00
C	YSM051C	11,750	235.00
D	YSM051D	11,750	235.00
E	YSM051E	11,750	235.00
F	YSM051F	11,750	235.00
G	YSM051G	11,750	235.00
H	YSM051H	11,750	235.00
I	YSM051I	11,750	235.00
J	YSM051J	11,750	235.00
K	YSM051K	11,750	235.00
L	YSM051L	11,750	235.00
M	YSM051M	11,750	235.00
N	YSM051N	11,750	235.00
O	YSM051O	11,750	235.00
P	YSM051P	11,750	235.00

Freq. block	License No.	Activity units	Upfront payment
Q	YSM051Q	11,750	235.00
R	YSM051R	11,750	235.00
S	YSM051S	11,750	235.00
T	YSM051T	11,750	235.00

NOTES: The frequency blocks specified above must be used on the FCC Form 159 in FCC Code 2 block when making down payments, final payments or installment payments.

Do not specify individual licenses on the FCC Form 159 accompanying an upfront payment.

All population figures are 4/1/90 U.S. Census, U.S. Department of Commerce, Bureau of the Census.

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[FR Doc. 95–24226 Filed 9–28–95; 8:45 am]

BILLING CODE 6712–01–M

Notice of Public Information Collections Being Reviewed by FCC For Extension Under Delegated Authority 5 CFR 1320 Authority

September 22, 1995.

The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

Written comments should be submitted on or before [insert date 60 days after date of publication in the Federal Register]. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

OMB Approval Number: 3060–0302.

Title: Section 97.9 Operator license.

Form No.: N/A.

Type of Review: Extension of existing collection.

Resopondents: Individuals and households.

Number of Respondents: 40,000.

Estimated Time Per Response: .001 hours.

Total Annual Burden: 40 hours.

Needs and Uses: The recordkeeping requirement contained in 97.5 requires that the amateur radio operator keep an original or photocopy of his or her operator license in their possession when serving as the control operator of an amateur radio station. This requirement is necessary so that the Commission field personnel can quickly determine whether an operater is licensed in conformance with the Communications Act of 1934, as amended as well as the International Telecommunications Union Radio Regulations. Review of the operator license is done by the FCC Compliance and Information Bureau personnel during inspection and investigations to assure that amateur operators are duly licensed in accordance with applicable rules, statutes and treaties. In the absence of this recordkeeping requirement, field investigations related to the solution of cases of harmful interference could be severely hampered and needlessly prolonged due to the inability to determine whether an operator is licensed.

OMB Approval No: 3060–0303.

Title: Section 97.5 Station license required.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Individuals or households.

Number of Respondents: 40,000.

Estimated Time Per Response: .001 hour.

Total Annual Burden: 40 hours.

Needs and Uses: The recordkeeping requirement in section 97.5 requires that an original or photocopy of each amateur station license be retained at the station. This is necessary so Commission field personnel can quickly determine whether the radio station is licensed in conformance with the terms of the station license and the requirements of the Communications Act of 1934, as amended. Review of the license is done by the FCC Compliance and Information Bureau personnel during inspections and investigations to assure that amateur stations are duly licensed in accordance with applicable rules, statutes and treaties. In the absence of this recordkeeping requirement, field investigations related to the solution of cases of harmful interference could be severely hampered and needlessly prolonged due to the inability to determine whether a station was licensed.

OMB Approval No: 3060–0434.

Title: Section 90.19(f)(7) Stolen vehicle recovery system requirements.

Form No.: N/A.

Type of Review: Exension of existing collection.

Respondents: Business or other for-profit; Small business or organizations.

Number of Respondents: 8 respondents; 5 responses per respondent.

Estimated Time Per Response: 4 hours.

Total Annual Burden: 160 hours.

Needs and Uses: Section 90.19 requires that applicants for stolen vehicle recovery systems perform an analysis for each base station to ensure that the system does not cause interference to Channel 7 television stations. This requirement is necessary so that the Commission field personnel can quickly determine whether the radio station is licensed and is being operated in conformance with the terms of the station license and the requirements of the Communications

Act of 1934, as amended. Review of the operator license is done by the FCC Compliance and Information Bureau personnel during inspections and investigation to assure that the stations are duly licensed in accordance with applicable rules statutes and treaties. In the absence of this recordkeeping requirement, field investigations related to the solution of cases of harmful interference could be severely hampered and needlessly prolonged due to the inability to determine whether the station was licensed.

OMB Approval No: 3060–0262.

Title: Section 90.179 Shared use of radio stations.

Form No.: N/A.

Type of Review: Extention of existing colléction.

Respondents: Business and other-for-profit; State or local governments; Not-for-profit institutions; Small businesses or organizations.

Number of Respondents: 1,650.

Estimated Time Per Response: .75.

Total Annual Burden: 1238.

Needs and Uses: Licensees are permitted to share use of their radio facilities with others who are not licensees. Secion 90.179 requires the sharing agreement and the list of station users by kept as part of the station records.

OMB Approval No: 3060–0260.

Title: Section 90.239 (d) Interim Provisions for Operation of Automatic Vehicle Monitoring (AVM) Systems (Supplemental showing required).

Form No.: N/A.

Type of Review: Extention of existing collection.

Respondents: State or local governments; Business or other for-profit; Not-for profit institutions; Small businesses or organizations.

Number of Respondents: 50.

Estimated Time Per Response: 1.33 hours.

Total Annual Burden: 67 hours

Needs and Uses: Section 90.239(d) requires applicants for Automatic Vehicle Monitoring (AVM) Systems to submit supplemental technical information necessary to evaluate the interference potential of the applied for system.

OMB Approval No: 3060–0180.

Title: Section 73.1610 Equipment Tests.

Form No.: N/A.

Type of Review: Extention of existing collection.

Respondents: Business and other-for-profit.

Number of Respondents: 612.

Estimated Time Per Response: 30 minutes.

Total Annual Burden: 306 hours.

Needs and Uses: Section 73.1610 requires the permittee of a new broadcast station to nitify the FCC of its plans to conduct equipment tests for the purpose of making adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit and applicalbe engineering standards. The data are used by FCC staff to assure compliance with the terms of the construction permit and applicable engineering standards.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–24165 Filed 9–28–95; 8:45 am]

BILLING CODE 6712–01–P

[Report No. 2099]

Petition for Reconsideration of Actions in Rulemaking Proceedings

September 26, 1995.

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed October 16, 1995. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Douglas, Tifton and Unionville) (MM Docket No. 93–316 and RM–8403)

Number of Petitions Filed: 1.

Subject: Allocation of Spectrum Below 5 GHz Transferred from Federal Governmental Use. (MM Docket No. 94–32)

Number of Petitions Filed: 2.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–24166 Filed 9–28–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

[Notice 1995–12]

Filing Dates for the Illinois Special Elections

AGENCY: Federal Election Commission.

ACTION: Notice of Filing Dates for Special Elections.

SUMMARY: Illinois has scheduled special elections on November 28 and December 12 in the Second Congressional District to fill the U.S. House seat vacated by Congressman Mel Reynolds.

Committees required to filé reports in connection with the Special Primary Election should file a 12-day Pre-Primary Report on November 16. Committees required to file reports in connection with both the Special Primary and Special General Election to be held on December 12 must file a 12-day Pre-Primary Report, a 12-day Pre-General Report on November 30, and a consolidated Post-General & Year-End Report on January 11, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Information Division, 999 E Street, NW., Washingotn, DC 20463, Telephone: (202) 219–3420; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates in the Special Primary and Special General Elections and all other political committees not filing monthly which support candidates in these elections shall file a 12-day Pre-Primary Report on November 16, with coverage dates from the close of the last report filed, or the day of the committee's first activity, whichever is later, through November 8, a 12-day Pre-General Election Report on November 30, with coverage dates from November 9 through November 22, and a consolidated Post-General and Year-End Report on January 11, 1996, with coverage dates from November 23 through December 31, 1995.

All principal campaign committees of candidates in the Special Primary Election only and all other political committees not filing monthly which support candidates in the Special Primary Election shall file a 12-day Pre-Primary Report on November 16, with coverage dates from the close of the last report filed, or the date of the committee's first activity, whichever is later, through November 8, and a Year-End Report on January 31, 1996, with coverage dates from November 9 through December 31, 1995.

All political committees not filing monthly which support candidates in the Special General only shall file a 12-day Pre-General Election Report on November 30, with coverage dates from the last report filed, or the date of the committee's first activity, whichever is later, through November 22, and a consolidated Post-General and Year-End Report on January 11, 1996, with

coverage dates from November 23 through December 31, 1995.

CALENDAR OF REPORTING DATES FOR ILLINOIS SPECIAL ELECTIONS

Report	Close of books [1]	Reg./cert. mailing date [2]	Filing date
I. All Committees Involved in the Special Primary (11/28) and Special General (12/12) Must File:			
Pre-Primary	11/08/95	11/13/95	11/16/95
Pre-General	11/22/95	[3] 11/30/95	11/30/95
Post-General & Year-End [4]	12/31/95	01/11/96	01/11/96
II. All Committees Involved in the Special Primary (11/28) Only Must File:			
Pre-Primary	11/08/95	11/13/95	11/16/95
Year-End	12/31/95	01/31/96	01/31/96
III. All Committees Involved in the Special General (12/12) Only Must File:			
Pre-General	11/22/95	[3] 11/30/95	11/30/95
Post-General & Year-End [4]	12/31/95	01/11/96	01/11/96

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.
[2] Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.
[3] The mailing date is the same as the filing date because the computed mailing date would fall one day before the primary was held.
[4] Committees should file a consolidated Post-General and Year-End Report by the filing date of the Post-General Report.

Dated: September 26, 1995.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 95–24230 Filed 9–28–95; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1068–DR]

Commonwealth of Puerto Rico; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Puerto Rico (FEMA–1068–DR), dated September 16, 1995, and related determinations.

EFFECTIVE DATE: September 22, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is September 15 through September 17, 1995.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 95–24259 Filed 9–28–95; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Steven Bangert, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 13, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Steven Bangert, Denver, Colorado; to acquire an additional 1.72 percent, for a total of 26.36 percent, and Howard Ross, Chicago, Illinois, to acquire an additional 1.73 percent, for a total of 25.62 percent, of the voting shares of Equitable Bankshares of Colorado, Inc., Denver, Colorado, and thereby indirectly acquire The Women's Bank, N.A., Denver, Colorado, and Equitable Bank of Littleton, N.A., Littleton, Colorado.

2. The Walter W. and Pearl M. Luehrman Revocable Living Trust, Walter W. and Pearl M. Luehrman, co-trustees, Lexington, Missouri, to acquire an additional 1.95 percent, for a total of 26.34 percent, of the voting shares of Higginsville Bancshares, Inc., Higginsville, Missouri, and thereby indirectly acquire First State Bank of Higginsville/Odessa, Higginsville, Missouri.

Board of Governors of the Federal Reserve System, September 25, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–24246 Filed 9–28–95; 8:45 am]

BILLING CODE 6210–01–F

HUBCO, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f)

of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than October 13, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. HUBCO, Inc., Mahwah, New Jersey, and United National Bancorp, Bridgewater, New Jersey; to acquire Hub Financial Services, Inc., Mahwah, New Jersey, and thereby engage in data processing activities, pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted worldwide.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. First American Corporation, Nashville, Tennessee; to acquire Charter Federal Savings Bank, Bristol, Virginia, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y; and in the sale of credit related insurance through Charter Federal Savings Bank's wholly-owned subsidiaries, Charter Financial Services Corporation and Highlands Service Corporation, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. The proposed activities will be conducted throughout the State of Virginia.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Old National Bancorp, Evansville, Indiana; to acquire First United Savings Bank, F.S.B., Greencastle, Indiana, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y. This activity will be conducted in Monroe County, Indiana.

Board of Governors of the Federal Reserve System, September 25, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–24247 Filed 9–28–95; 8:45 am]

BILLING CODE 6210–01–F

NationsBank Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 13, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. NationsBank Corporation, Charlotte, North Carolina; to merge with Bank South Corporation, Atlanta, Georgia, and thereby indirectly acquire Bank South, Atlanta, Georgia.

In connection with this application, Applicant also has applied to acquire Bank South Life Insurance Corporation, Atlanta, Georgia; Bank South Life Insurance Corporation, and thereby reinsure credit life and credit disability insurance activities, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; Bank South Securities Corporation, and thereby engage in underwriting and dealing in municipal revenue bonds, buying and selling municipal revenue bonds on the order of investors as a "riskless principal"; acting as agent in the private placement of municipal revenue bonds and other general obligations of states, their political subdivisions, authorities, or agencies, all pursuant to Board Order; *Bank South Corporation*, 79 Fed. Res. Bull. 716 (1993); in providing full service brokerage and discount brokerage services, pursuant to § 225.25(b)(15) of the Board's Regulation Y; in providing investment and financial advisory services to states, their political subdivisions, authorities, or agencies, and to other entities, pursuant to § 225.25(b)(4)(v) of the Board's Regulation Y; in underwriting and dealing in government obligations and money market instruments pursuant, to § 225.25(b)(16) of the Board's Regulation Y; in arranging commercial real estate equity financing pursuant, to § 225.25(b)(14) of the Board's Regulation

Y; providing foreign exchange advisory services, pursuant to § 225.25(b)(17) of the Board's Regulation Y; and Southeast Switch, Inc., and thereby engage in owning an interest in an interbank electronic funds transfer computer network for automatic teller machines, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 25, 1995

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–24248 Filed 9–28–95; 8:45 am]

BILLING CODE 6210–01–F

Peoples Banking Company, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 23, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Peoples Banking Company, Springfield, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank of the Ozarks, Nixa, Missouri; Citizens Bank of the Ozarks, Camdenton, Missouri; and Peoples Bank of Fordland, Fordland, Missouri.

Comments regarding this application must be received not later than October 13, 1995.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Park Bank Corporation of Duluth, Duluth, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Park State Bank, Duluth, Minnesota.

Board of Governors of the Federal Reserve System, September 25, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–24249 Filed 9–28–95; 8:45 am]

BILLING CODE 6210–01–F

Sun Bancorp, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 13, 1995.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Sun Bancorp, Inc., Selinsgrove, Pennsylvania; to acquire Mifflin Place Associates, Mifflinburg, Pennsylvania, and thereby engage *de novo* in community development activities through a 95 percent investment in Company, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 25, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–24250 Filed 9–28–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95N–0317]

Colgate-Palmolive Co., et al.; Withdrawal of Approval of 23 New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 23 new drug applications (NDA's). The holders of the NDA's notified the agency in writing that the drug products were no longer being marketed under the NDA and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy G. Maizel, Center for Drug Evaluation and Research (HFD–53), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2623.

SUPPLEMENTARY INFORMATION: The holders of the NDA's listed below have informed FDA that these drug products are no longer being marketed under the NDA and have requested that FDA withdraw approval of the applications. The applicants have also, by request, waived their opportunity for a hearing.

NDA No.	Drug	Applicant
6–615	Veto Cream Deodorant	Colgate-Palmolive Co., P.O. Box 1343, 909 River Rd., Piscataway, NJ 08855–1343.
7–871	Perazil Cream	Burroughs Wellcome Co., 3030 Cornwallis Rd., P.O. Box 12700, Research Triangle Park, NC 27709–2700.
8–842	Raudixin Tablets	Apothecon, Bristol-Myers Squibb Co., P.O. Box 4500, Princeton, NJ 08543–4500.
10–653	Disipal Tablets	Riker Laboratories Inc., 3M Pharmaceuticals, 270–3A–01 3M Center, St. Paul, MN 55144–1000.
12–026	Apresoline-Esidrix Tablets	Ciba Pharmaceuticals Division, Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901–1398.
12–402	Ivadantin Injection	Procter & Gamble Pharmaceuticals, Regulatory and Clinical Development, Sharon Woods Technical Center, 11370 Reed Hartman Hwy., Cincinnati, OH 45241–2422.
16–069	Mepriam Tablets	Lemmon Co., 650 Cathill Rd., Sellersville, PA 18960.
16–379	Locorten Cream	Ciba Pharmaceuticals Division.
17–046	Kaon-Cl/Koan-Cl 10 Tablets	Savage Laboratories, Division of Altana Inc., 60 Baylis Rd., Melville, NY 11747.
17–244	Uticort Gel	Parke-Davis Pharmaceutical Research, Division of Warner-Lambert Co., 2800 Plymouth Rd., Ann Arbor, MI 48105.
17–739	Monistat-Derm Lotion	The R.W. Johnson Pharmaceutical Research Institute, Route 202, P.O. Box 300, Raritan, NJ 08869–0602.
17–941	Sudafed 12–Hour Capsules	Burroughs Wellcome Co.
18–004	Hydroxyprogesterone Caproate Injection	Akorn Inc., P.O. Box 1220, Decatur, IL 62525.
18–009	Sarenin Injection	Procter & Gamble Pharmaceuticals.
18–075	K-TimeKap Capsules	Ciba Pharmaceuticals Division.
18–166	Trasicor Capsules	Do.
18–816	Micatin Antifungal Powder	Advanced Care Products, Ortho Pharmaceutical Corp., J&J Research Complex, Route 1 South and Middleton Rd., North Brunswick, NJ 08902–0724.
18–872	Viskazide Tablets	Sandoz Pharmaceuticals Corp., 59 Route 10, East Hanover, NJ 07936–1080.
19–208	Actifed Capsules	Burroughs Wellcome Co.
19–451	Lopressor Chlorthalidone Capsules	Ciba Pharmaceutials Division.
20–158	Deracyn Tablets	The Upjohn Co., U.S. Pharmaceutical Regulatory Affairs, 7000 Portage Rd., Kalamazoo, MI 49001–0199.
50–473	Velosef Powder for Oral Suspension	Apothecon.
50–474	Velosef Capsules	Do.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the NDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective September 29, 1995.

Dated: September 21, 1995.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 95–24158 Filed 9–28–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0319]

Roche Pharmaceutical Inc., et al.; Withdrawal of Approval of 13 New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 13 new drug applications (NDA's). The holders of the NDA's notified the agency in writing that the drug products were no longer being marketed under the NDA and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Maizel, Center for Drug Evaluation and Research (HFD–53), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2623.

SUPPLEMENTARY INFORMATION: The holders of the NDA's listed below have informed FDA that these drug products are no longer being marketed under the NDA and requested that FDA withdraw approval of the applications. The applicants have also, by request, waived their opportunity for a hearing.

NDA No.	Drug	Applicant
8–414	Gantrisin Ophthalmic Ointment	Roche Pharmaceuticals, Division of Hoffmann-La Roche Inc., 340 Kingsland St., Nutley, NJ 07110–1199.
18–996	Actifed 12–Hour Capsules	Burroughs Wellcome Co., 3030 Cornwallis Rd., P.O. Box 12700, Research Triangle Park, NC 27709–2700.
50–102	Dynapen for Injection	Apothecon, Bristol-Myers Squibb Co., P.O. Box 4500, Princeton, NJ 08543–4500.
50–117	Staphcillin Injection	Do.
50–118	Prostaphlin Capsules	Do.
50–167	Polysporin Aerosol Spray	Burroughs Wellcome Co.
50–176	Neosporin Cream	Do.
50–191	Tegopen Capsules	Apothecon.

NDA No.	Drug	Applicant
50–192	Tegopen Powder for Oral Solution	Do.
50–194	Prostaphlin Powder for Oral Solution	Do.
50–195	Prostaphlin (Oxacillin Sodium) for Injection	Apothecon.
50–308	Polycillin (Ampicillin) Powder for Oral Solution	Do.
50–337	Dynapen for Oral Suspension	Do.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the NDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective September 29, 1995.

Dated: September 21, 1995.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 95–24156 Filed 9–28–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0318]

Searle, et al.; Withdrawal of Approval of 17 New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 17 new drug applications (NDA's). The holders of the NDA's notified the agency in writing that the drug products were no longer being marketed under the NDA and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy G. Maizel, Center for Drug Evaluation and Research (HFD–53), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2623.

SUPPLEMENTARY INFORMATION: The holders of the NDA's listed below have informed FDA that these drug products are no longer being marketed under the NDA and have requested that FDA withdraw approval of the applications. The applicants have also, by request, waived their opportunity for a hearing.

NDA No.	Drug	Applicant
2–386	Aminophyllin Tablets	Searle, 4901 Searle Pkwy., Skokie, IL 60077
3–205	Pantholin Tablets	Lilly Research Laboratories, Division of Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285.
6–917	Gantrisin Injection	Hoffmann-La Roche Inc., Roche Pharmaceuticals, 340 Kingsland St., Nutley, NJ 07110–1199.
8–867	Rauwiloid Tablets	3M Pharmaceuticals, 3M Center, St. Paul, MN 55144–1000.
9–078	Parsidol Tablets	Parke-Davis Pharmaceutical Research, 2800 Plymouth Rd., Ann Arbor, MI 48105.
9–299	Hyperloid Tablets	Person & Covey Inc., P.O. Box 25018, 616 Allen Ave., Glendale, CA 91221–5018.
11–045	Milprem Tablets	Wallace Laboratories, Division of Carter-Wallace Inc., 301B College Rd. East, Princeton, NJ 08540.
11–110	Actidil Tablets	Burroughs Wellcome Co., 3030 Cornwallis Rd., P.O. Box 12700, Research Triangle Park, NC 27709–2700.
11–496	Actidil Syrup	Do.
11–535	Equanil Meprobamate Suspension	Wyeth-Ayerst Laboratories, P.O. Box 8299, Philadelphia, PA 19101–8299.
11–876	Fedrazil Tablets	Burroughs Wellcome Co.
17–528	Uticort Lotion	Parke-Davis Pharmaceutical Research.
17–917	Duraquin Tablets	Warner Chilcott Laboratories, 201 Tabor Rd., Morris Plains, NJ 07950.
18–375	Turgex Bacteriostatic Skin Cleanser (Aerosol)	Xttrium Laboratories Inc., 415 West Pershing Rd., Chicago, IL 60609.
19–055	Turgex Bacteriostatic Skin Cleanser (Emulsion)	Do.
50–019	Penbritin Ampicillin Drops	Wyeth-Ayerst Laboratories.
50–355	Coly-Mycin S Oral Suspension	Parke-Davis Pharmaceutical Research.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the NDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective September 29, 1995.

Dated: September 2, 1995.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 95–24157 Filed 9–28–95; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone

system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

National Task Force on Aids Drug Development

Date, time, and place. October 12, 1995, 8:30 a.m., Hubert H. Humphrey Bldg., rm. 800, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open task force discussion, 8:30 a.m. to 4:30 p.m.; open public hearing, 4:30 p.m. to 5:30 p.m., unless public participation does not last that long; Heidi C. Marchand or Kimberley M. Miles, Office of AIDS and Special Health Issues (HF–12), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–0104, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), National Task Force on AIDS Drug Development, code 12602.

General function of the task force. The task force shall identify any barriers and provide creative options for the rapid development and evaluation of treatments for human immunodeficiency virus (HIV) infection and its sequelae. It also advises on issues related to such barriers, and provides options for the elimination of these barriers.

Open task force discussion. The task force will present, hear, and discuss recommendations made at previous meetings and discuss the future of the task force.

FDA is giving less than 15 days public notice of the advisory committee meeting because of the urgent need to address the potential risk of this disease to public health safety. The agency decided that it was in the public interest to hold this scientific discussion on October 12, 1995, even if there was not sufficient time for the customary 15-day public notice.

Agenda—Open public hearing. Interested persons may present information or views, orally or in writing, on issues pending before the task force. Those desiring to make formal presentations should notify the contact person before October 10, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

National Mammography Quality Assurance Advisory Committee

Date, time, and place. October 16, 1995, 10 a.m., and October 17 and 18, 1995, 9 a.m., Dupont Plaza Hotel, 1500 New Hampshire Ave. NW., Washington, DC. A limited number of overnight accommodations have been reserved at the Dupont Plaza Hotel. Attendees requiring overnight accommodations may contact the hotel at 202–483–6000 and reference the FDA Committee meeting block. Reservations will be confirmed at the group rate based on availability.

Type of meeting and contact person. Open committee discussion, October 16, 1995, 10 a.m. to 12 m.; open subcommittee discussions, 12 m. to 5 p.m.; open public hearing, October 17, 1995, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; open subcommittee discussions, October 18, 1995, 9 a.m. to 1 p.m.; open committee discussion, 1 p.m. to 3 p.m.; Charles K. Showalter, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), National Mammography Quality Assurance Advisory Committee, code 12397.

General function of the committee. The committee advises on developing appropriate quality standards and regulations for the use of mammography facilities.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 10, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On October 16, 1995, the committee will discuss a methodology of assessing the costs and benefits of the Mammography Quality Standards Act (the MQSA). On October 17, 1995, the committee will discuss facility inspection procedures and have a briefing by FDA on facility inspections to date. Copies of the "MQSA Facility Inspection Procedures" may be obtained by submitting a written request to John L. McCrohan at the address given above for the FDA contact person. On October 18, 1995, the committee will discuss the ongoing work of the three subcommittees: Access to Mammography Services, Physicists Availability, and Cost Benefit of Compliance.

Open subcommittee discussions. On October 16 and 18, 1995, the three subcommittees will meet concurrently. The subcommittees will discuss information that is necessary to make the determinations and subsequently prepare the reports mandated by the MQSA. Upon completion, the subcommittee reports will be reviewed by the committee prior to submission to the Secretary of Health and Human Services and Congress.

Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand Advisory Committee)

Date, time, and place. October 23, 1995, 8:30 a.m., Hubert H. Humphrey Bldg., rm. 405–A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open committee discussion, 8:30 a.m. to 10:30 a.m.; open public hearing, 10:30 a.m. to 11:30 a.m., unless public participation does not last that long; open committee discussion, 11:30 a.m. to 5 p.m.; Ronald F. Coene, National Center for Toxicological Research (HFT–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3155, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Ranch Hand Advisory Committee, code 12560.

General function of the committee. The committee shall advise the Secretary and the Assistant Secretary for Health concerning its oversight of the conduct of the Ranch Hand Study by the Air Force and other studies in which the Secretary or the Assistant Secretary for Health believes involvement by the advisory committee is desirable.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 16, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their comments.

Open committee discussion. The committee will review and provide comments on the draft protocol and questionnaire for the Department of Veterans Affairs, Army Chemical Corps Vietnam Veterans Health Study, developed by the Environmental and Epidemiology Service, Department of Veterans Affairs, Veterans Administration.

A final agenda will be available October 18, 1995, from the contact person.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: September 25, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 95–24219 Filed 9–28–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS), is publishing the following summaries of proposed collections for public comment.

Type of Information Collection Request: Extension; *Title of Information Collection:* Sole Community Home Health Agencies (HHA) at 42 CFR424.22(b)(2),(f) and (g); *Form No.:* HCFA R–85; *Use:* These regulations implement the rules for participation of HHAs in Medicare and the establishment and review of plans of care for home health services. These regulations make it easier for certain HHAs to meet certification and plan of care requirements. *Frequency:* Annually; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 20; *Total Annual Hours:* 40.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: September 21, 1995.

Carl Bordone,

Acting Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 95–24133 Filed 9–28–95; 8:45 am]

BILLING CODE 4120–03–P

Indian Health Service

Availability of Funds for Loan Repayment Program for Repayment of Health Professions Educational Loans

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: The Administration's budget request for fiscal year (FY) 1996 includes $11,000,000 for the Indian Health Service Loan Repayment Program for health professions educational loans (undergraduate and graduate) in return for full-time clinical service in Indian health programs. It is anticipated that $11,000,000 will be available to support approximately 250 competing awards averaging $50,000 per award

This program announcement is subject to the appropriation of funds.

This notice is being published early to coincide with the recruitment activity of the IHS which competes with other Government and private health management organizations to employ qualified health professionals. Funds are required to be expended by September 30 of the fiscal year. This program is authorized by Section 108 of the Indian Health Care Improvement Act as amended, 25 U.S.C. 1601 *et seq.* The IHS invites potential applicants to request an application for participation in the Loan Repayment Program.

DATES: Applicaitons for the FY 1996 Loan Repayment Program will be accepted and evaluated monthly beginning 30 days after publication of this notice and will continue each month thereafter until all funds are exhausted. Subsequent monthly deadline dates are scheduled for Friday of the second full week of each month. Notice of awards will be mailed on the last working day of each month.

Applicants selected for participation in the FY 1996 program cycle will be expected to begin their service period no later than September 30, 1996.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall *not* be acceptable as proof of timely mailing.)

Applications received after the monthly closing date will be held for consideration in the next monthly funding cycle. Applicants who do not receive funding by September 30, 1996, will be notified in writing.

FORM TO BE USED FOR APPLICATION: Applications will be accepted only if they are submitted on the form entitled "Application for the Indian Health Service Loan Repayment Program," identified with the Office of Management and Budget approval number of OMB #0917–0014 (expires 2/28/96).

ADDRESSES: Application materials may be obtained by calling or writing to the address below. In addition, completed applications should be returned to: IHS Loan Repayment Program, 12300 Twinbrook Parkway—Suite 100, Rockville, Maryland 20852, PH: 301/443–3396 (between 8 a.m. and 5 p.m. (EST) Monday through Friday, except Federal holidays).

FOR FURTHER INFORMATION CONTACT: Please address inquiries to Mr. Charles Yepa, LRP Section Chief, IHS Loan Repayment Program, Twinbrook Metro Plaza—Suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, PH: 301/443–3396 (between 8 a.m. and 5 p.m. (EST) Monday through Friday, except Federal holidays).

SUPPLEMENTARY INFORMATION: Section 108 of the Indian Health Care Improvement Act as amended by Public Law 100–713 and 102–573, authorizes the IHS Loan Repayment Program and provides in pertinent part as follows:

> The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the "Loan Repayment Program") in order to assure an adequate supply of trained heath professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs
>
> "Health Profession" means family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering and allied health professions.

Osteopathic physicians (D.O.) may be funded regardless of specialty, provided that the IHS has a need for that specialty. Allopathic physicians (M.D.) may be funded only if they are board certified/eligible in family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology and psychiatry.

For the purpose of this program, the term "Indian health program" is defined in Section 108(a)(2)(A), as follows:

> * * * any health program or facility funded, in whole or in part, by the IHS for the benefit of American Indians and Alaska Natives and administered:
>
> a. Directly by the service; or
>
> b. By any Indian tribe or tribal or Indian organization pursuant to a contract under:
>
> (1) The Indian Self-Determination Act; or
>
> (2) Section 23 of the Act of April 30, 1908, (25 U.S.C. 47), popularly known as the Buy Indian Act; or
>
> (3) By an urban Indian organization pursuant to Title V of this act.

Applicants may sign contractual agreements with the Secretary for 2 years. The IHS will repay all or a portion of the applicant's health professions educational loans (undergraduate and graduate) for tuition expenses and reasonable educational and living expenses in amounts up to $30,000 per year for each year of contracted service to be made in annual payments to the participant for the purpose of repaying his/her outstanding health professions educational loans. Repayment of health professions educations loans will be made to the participant within 120 days after the participant's entry on duty has been confirmed by the IHS. The Secretary must approve the contract before the disbursement of loan repayments can be made to the participant.

Participants will be required to fulfill their contract service agreements through full-time clinical practice at an Indian health program site determined by the Secretary. Loan repayment sites are characterized by physical, cultural, and professional isolation, and have histories of frequent staff turnover. All Indian health program sites are annually prioritized by discipline, based on need or vacancy by the Agency.

All health professionals will receive up to $30,000 per year, regardless of their length of contract. Where payments under the Loan Repayment Program result in an increase in Federal income tax liability, the IHS will pay up to 31 percent of the participant's total loan repayments to the Internal Revenue Service on the participant's behalf for all or part of the increased tax liability of the participant.

Pursuant to Section 108(b), to be eligible to participate in the Loan Repayment Program an individual must:

(1) A. be enrolled:

(i) In a course of study or program in an accredited institution, as determined by the Secretary, within any state and be scheduled to complete such course of study in the same year such individual applies to participate in the Loan Repayment Program. (The Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau); or

(ii) In an approved graduate training program in a health profession; or

B. have a degree in a health profession and a license to practice; AND

(2) A. be eligible for, or hold an appointment as a Commissioned Officer in the Regular or Reserve Corps of the Public Health Service, or

B. be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service; or

C. meet the professional standards for civil service employment in the IHS; or

D. be employed in an Indian health program without service obligation; AND

(3) submit to the Secretary an application and contract to the Loan Repayment Program; AND

(4) sign and submit to the Secretary, a written contract agreeing to accept repayment of educational loans and to serve for the applicable period of obligated service in a priority site as determined by the Secretary; AND

(5) sign an affidavit attesting to the fact that they have been informed of the relative merits of the U.S. Public Health Service Commissioned Corps and the Civil Service as employment options.

Upon approval of the applicant for participation in the Loan Repayment Program, the applicant will receive confirmation of his/her loan repayment award and the duty site at which he/she will serve his/her loan repayment obligation.

The IHS has identified the positions in each Indian health program for which there is a need or vacancy and ranked those positions in order of priority by developing discipline specific prioritized lists of sites. Ranking criteria for these sites include the following:

- Historically critical shortages caused by frequent staff turnover;
- Current unmatched vacancies in a Health Profession Discipline;
- Projected Vacancies in a Health Profession Discipline;
- Ensuring that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization received consideration on an equal basis with programs that are administered directly by the Service; and
- Giving priority to vacancies in Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached Loan Repayment Program contracts entered into under this section. Consistent with this priority ranking, in determining which applications to approve and which contracts to accept, the IHS will give priority to applications made by American Indians and Alaska Natives and to individuals recruited through the efforts of Indian tribes or tribal or Indian organizations.
- With respect to priorities among the various health professions, the statute requires that of the total amount appropriated for Fiscal Year 1996 for loan repayment contracts, not less than 25 percent be provided to applicants who are nurses, nurse practitioners, or nurse midwives and not less than 10 percent be provided to applicants who are mental health professionals (other than nurses, nurse practitioners, or nurse midwives). This requirement does not apply if the number of applications from these two groups, respectively, is not sufficient to meet the requirement.
- Subject to the above statutory priority for nurses and mental health practitioners, the IHS will give priority in funding among health professionals to physicians in the following priority specialties: anesthesiology, emergency room medicine, general surgery, obstetrics/gynecology, ophthalmology, orthopedic surgery, otolaryngology/otorhinolaryngol, psychiatry and radiology.

The following factors are equal in weight when applied, and are applied when all other cirteria are equal and a selection must be made between applicants. One or all of the following factors may be applicable to an applicant, and the applicant who has the most of these factors, all other criteria equal, would be selected.

- An applicant's length of current employment in the IHS, tribal or urban program.
- Availability for service earlier than other applicants (first come, first served); and
- Date the individual's application was received.

Any individual who enters this program and satisfactorily completes his or her obligated period of service may apply to extend the contract on a year-by-year basis as determined by the IHS, at the maximum amount of up to $30,000 per year and an additional 31 percent for Federal Withholding. If funds available, the maximum amount will be funded in this manner and will not exceed the total of the individual's outstanding eligible health professions educational loans.

Any individual who owes an obligation for health professional service to the Federal Government or to a State or other entity under an agreement with such State or other entity is not eligible for the Loan Repayment Program unless such an obligation will be completely satisfied prior to the beginning of service under this program in the year that an application is made for this program.

This program is not subject to review under Executive Order 12372.

The Catalog of Federal Domestic Assistance number is 93.164.

Dated: September 20, 1995.

Michel E. Lincoln,

Acting Director.

[FR Doc. 95–24221 Filed 9–28–95; 8:45 am]

BILLING CODE 4160–16–M

National Institutes of Health

Notice of a Meeting of the Office of AIDS Research Advisory Council (OARAC)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Office of AIDS Research Advisory Council (OARAC) on October 19, 1995, at the National Institutes of Health (NIH), Bethesda, Maryland. The meeting will take place on October 19 from 8:30 am to 5:00 pm, in Building 31, C Wing, Sixth Floor, Conference Room 10. The meeting will be open to the public.

The purpose of the first OARAC meeting will be to introduce and welcome new council members and further familiarize them with the NIH AIDS research program. The meeting will include a presentation on the Office of AIDS Research (OAR) structure and function, and an overview of the NIH AIDS research effort in the five areas of AIDS research: Natural History, Epidemiology, and Prevention Research; Etiology and Pathogenesis; Behavioral Research; Vaccine Research and Development; and Therapeutics. There will be discussions on the NIH AIDS Research Program Evaluation; a review of the OAR Emergency Discretionary Fund and discussions on a proposal for new ways for making the best use of these funds.

Jeannette R. De Lawter, Program Analyst, Office of AIDS Research, National Institutes of Health, Building 31, Room 4B54, 9000 Rockville Pike, Bethesda, MD 20892, Phone (301) 402–3357, Fax (301) 402–3360, will furnish the meeting agenda and roster of committee members upon request. Any individual who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mrs. De Lawter at the above location no later than October 13.

Dated: September 22, 1995.

Margery G. Grubb,

Senior Committee Management Specialist.

[FR Doc. 95–24323 Filed 9–28–95; 8:45 am]

BILLING CODE 4140–01–M

Notice of Meeting

Notice is hereby given of the meeting of the NIH AIDS Research Program Evaluation Working Group Area Review Panel on Natural History, Epidemiology, and Prevention Research on October 17, 1995 from 1 pm to 5 pm at the Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland. The meeting will be open to the public from 2 pm to 5

pm, and the closed portion will be from 1 pm to 2 pm.

The NIH Revitalization act of 1993 authorizes the Office of AIDS Research (OAR) to evaluate the AIDS research activities of NIH. The NIH AIDS Research Program Evaluation Working Group was established by the OAR to carry out this major evaluation initiative, reviewing and assessing each of the components of the NIH AIDS research endeavor to determine whether those components are appropriately designed and coordinated to answer the critical scientific questions to lead to better treatments, preventions, and a cure for AIDS. Six Area Review Panels were also established to address the following research areas: Natural History and Epidemiology; Etiology and Pathogenesis; Clinical Trials; Drug Discovery; Vaccine Research; and Behavioral and Social Sciences Research.

The purpose of the meeting is to seek input from individuals and organizations interested in the evaluation of AIDS research in the areas of natural history, epidemiology, and biomedical (nonbehavioral) intervention and prevention. Examples of areas under consideration by the panel include risk factors and mechanisms of HIV transmission; the progression of HIV-related disease from primary infection through long-term consequences and sequelae; cohort studies of HIV-infected persons and HIV-uninfected persons at high risk of acquiring the infection; biomedical methods for HIV prevention and control, including topical microbicides; and treatment of other sexually transmitted diseases as a means of HIV control. The NIH AIDS Research Program Evaluation Working Group will develop recommendations to be made to the Office of AIDS Research Advisory Council that address the overall NIH AIDS research initiatives, both intramural and extramural, and identify long-range goals in the relevant areas of science. These recommendations will provide the framework for future planning and budget development of the NIH AIDS research program.

There will be a closed session from 1 pm to 2 pm to update the Panel members on privileged information on institute and center grant and contract portfolios. The open session from 2 pm to 5 pm will begin with a brief overview of panel activities by members of the panel. The remainder of the meeting will be devoted to presentations from individuals and organizations. The session is open to the public; however, attendance may be limited by seat availability.

Comments should be confined to statements related to the current status of NIH AIDS research in the areas of natural history, epidemiology, and biomedical prevention and recommendations for consideration by the panel in assessing and reviewing the relevant research in these areas.

Only one representative of an organization may present oral comments. Each speaker will be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations must submit a letter of intent to present comments and three (3) typewritten copies of the presentation, along with a brief description of the organization represented, to the attention of Dr. Sandra L. Melnick, Office of AIDS Research, NIH, 31 Center Drive, MSC 2340, Building 31, Room 5C08, Bethesda, MD 20892–2340, (301) 402–2932, FAX: (301) 402–7769. Letters of intent and copies of presentations must be received no later than 5 pm EDT on October 10.

Individuals wishing to provide only written statements should send three (3) typewritten copies of their comments, including a brief description of their organization, to the above address no later than 5 pm EDT on October 12. Statements submitted after that date will be accepted. They may not, however, be made available to the Area Review Panel prior to the meeting, though they will be provided subsequently as written testimony.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Melnick in advance of the meeting.

Dated: September 22, 1995.

Margery G. Grubb,

Senior Committee Management Specialist.

[FR Doc. 95–24322 Filed 9–28–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications

Name of SEP: Multidisciplinary Sciences
Date: October 11–13, 1995
Time: 7:00 p.m.
Place: Lebanon, New Hampshire
Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 5104, Bethesda, Maryland 20892, (301) 435–1165

Name of SEP: Multidisciplinary Sciences
Date: October 13, 1995
Time: 10:00 a.m.
Place: Lebanon, New Hampshire
Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 5104, Bethesda, Maryland 20892, (301) 435–1165

Name of SEP: Biological and Physiological Sciences
Date: November 15, 1995
Time: 4:00 p.m.
Place: NIH, Rockleg II, Room 4148, Telephone Conference
Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1038.

Purpose/Agenda: To review Small Business Innovation Research

Name of SEP: Multidisciplinary Sciences
Date: November 6–7, 1995
Time: 8:00 a.m.
Place: Georgetown Holiday Inn, Washington, DC
Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 5104, Bethesda, Maryland 20892, (301) 435–1165.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 923.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93,893, National Institutes of Health, HHS)

Dated: September 25, 1995.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 95–24324 Filed 9–28–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Clinical Centers and Special Projects Committee, National Institute of Mental Health Initial Review Group, of the National Institute of Mental Health,

October 5–6, 1995, NIH Natcher Conference Center, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892, which was published in the Federal Register on September 1, 1995, 60 FR 45727.

This meeting is being cancelled due to prior commitments of several members.

Dated: September 25, 1995.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 95–24326 Filed 9–28–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications

Name of SEP: Behavioral and Neurosciences

Date: October 10, 1995

Time: 12 p.m.

Place: Georgetown Inn, Washington, DC

Contact Person: Dr. Carole Jelsema, Scientific Review Administrator, 6701 Rockledge Drive, Room 5176, Bethesda, Maryland 20892, (301) 435–1248.

Name of SEP: Behavioral and Neurosciences

Date: October 11, 1995

Time: 4:00 p.m.

Place: Georgetown Inn, Washington, DC

Contact Person: Dr. Carole Jelsema, Scientific Review Administrator, 6701 Rockledge Drive, Room 5176, Bethesda, Maryland 20892, (301) 435–1248.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 25, 1995.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 95–24325 Filed 9–28–95; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 60 FR 30092, June 7, 1995) is amended to reflect a reorganization within the Office of Research Services (ORS). The reorganization consists of the following: Retitle the Division of Security Operations (HNAL4) to the Division of Public Safety (HNAL4) and revise its functional statement. This reorganization is consistent with Administration objectives related to the National Performance Review and the Continuous Improvement Program. This reorganization will enable ORS to better fulfill its mission by centralizing the focus of public safety functions within ORS.

Section HN–B, Organization and Functions, is amended as follows: (1) Under the heading *Division of Security Operations (HNAL4), Office of Research Services (HNAL),* delete the title and functional statement in their entirety and substitute the following:

Division of Public Safety (HNAL4). (1) Plans, directs, coordinates, and evaluates a comprehensive protection and security program that requires the development of protection and security criteria to eliminate or control protection and security vulnerabilities encountered in the construction, operations, and maintenance of NIH's health care facilities, research laboratories, administration and support facilities, and the physical plant; (2) is responsible for all security and protection programs, including education, training, technical assistance, physical security, hospital security, parking and traffic control, law enforcement, criminal investigation, fire protection, and emergency management; (3) implements Federal and Departmental regulations and establishes NIH policies and procedures in the area of security, emergency management, and protection; (4) as the focal point for the receipt and transmittal of classified documents, verifies clearance levels prior to the delivery of classified documents, provides security briefings and debriefings for persons holding security clearances, and destroys outdated classified documents; (5) maintains liaison with international, national, State and local law enforcement and emergency management agencies, with particular emphasis on the Federal Bureau of Investigation, Drug Enforcement Agency, Montgomery County Police and Fire, security directors of research facilities receiving NIH funds, and the Federal Emergency Management Administration (FEMA); (6) ensures that all appropriate action is taken to carry out 45 CFR Part 3, including providing assistance to the Department of Justice in prosecuting criminal offenses or pursuing other legal actions related to the law enforcement or investigative activities of the division; and (7) plans, conducts, and coordinates programs to protect life, property, and the environment in the event of fire, explosions, accidental release of hazardous materials, and natural disasters.

Dated: September 10, 1995.

Harold Varmus,

Director, NIH.

[FR Doc. 95–24327 Filed 9–28–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3778–N–56]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: September 29, 1995.

FOR FURTHER INFORMATION CONTACT: For further information, contact Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-

impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: September 22, 1995.

Ken Williams,

Deputy Assistant Secretary for Grant Programs.

[FR Doc. 95–24070 Filed 9–28–95; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. FR–2856–N–03]

Office of the Assistant Secretary for Public and Indian Housing; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* November 28, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451–7th Street, SW., Room 4240, Washington, DC 20410–5000 .

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202)–708–0846, (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarify of the information to be collected; and (4) Minimize the burden of the collection of information of those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Public Housing-Contracting with Resident-Owned Businesses

OMB Control Number, if applicable: 2577–0161

Description of the need for the information and proposed use: The information is necessary so that the applicants (resident-owned businesses) seeking to qualify for noncompetitive contracting with the PHA will be eligible to be solicited by the PHA as a contractor for a proposed contract.

Agency forms numbers, if applicable: Not applicable.

Members of affected public: Individuals or households; State or local governments; nonprofit institutions; small businesses or organizations.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 500 respondents, annually, 9 average hours per response, 10,000 hours for a total reporting burden.

Status of the proposed information collection: Extension, without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 21, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 95–24227 Filed 9–28–95; 8:45 am]

BILLING CODE 4210–33–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3972–D–01]

Supersedure and Redelegation of Authority Regarding Waiver of Public and Indian Housing Directives for the Public Housing, Indian Housing and Section 8 Rental Voucher, Rental Certificate, and Moderate Rehabilitation Programs and for Waiver of Conflict of Interest Prohibitions in Section 8 Contracts for the Rental Voucher, Rental Certificate and Moderate Rehabilitation Programs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Supersedure and Redelegation of Authority to Issue Waivers of Office of Public and Indian Housing Directives for Public Housing, Indian Housing and Section 8 Rental Certificate, Rental Voucher and Moderate Rehabilitation Programs and to Waive Conflict of Interest Prohibitions in Section 8 Contracts for the Rental Certificate, Rental Voucher and Moderate Rehabilitation Programs. (This notice does not apply to the Moderate Rehabilitation Single Room Occupancy Program.)

SUMMARY: This notice consolidates in one document:

—Authority to waive Office of Public and Indian Housing directives for the Public Housing Program, Indian Housing Program and the Section 8 Rental Certificate Program, Rental Voucher Program and Moderate Rehabilitation Program and

—Authority to waive conflict of interest prohibitions for the Section 8 Rental Certificate and Rental Voucher programs and the Section 8 Moderate Rehabilitation Program.

The authority to waive Office of Public and Indian Housing Directives was previously retained and administered by the HUD Field Office Directors of Indian Programs, the Field Office Directors of HUD Public Housing Divisions and the Headquarters Director, Office of Native American Programs. The authority to waive conflict of interest prohibitions in the Section 8 Rental Certificate, Rental Voucher and Moderate Rehabilitation Programs was previously retained and administered by the Field Office Regional Administrators, Deputy Regional Administrators, Area Managers, Deputy Area Managers and Multifamily Service Office Supervisors.

This notice supersedes the prior redelegations of authority to waive

Section 8 conflict of interest prohibitions published at 45 FR 54143, August 14, 1980 and the redelegation of authority for the issuance of waivers of Office of Public and Indian Housing Directives published at 34 FR 8266, February 18, 1994. It does not supersede the authority regarding the waiver of conflict of interest provisions for the public housing and Indian Housing programs.

The authority to waive the conflict of interest includes the contracts for the Section 8 Rental Certificate, Rental Voucher and Moderate Rehabilitation Programs (exclusive of Moderate Rehabilitation Single Room Occupancy Program.)

This notice relates only to the waiver of Public and Indian Housing directives and Section 8 conflict of interest prohibitions and does not grant authority to waive contractual provisions. This redelegation does not include authority to waive statutes, regulations or contracts and does not confer authority to waive the requirement that Housing Authorities (HAs) must use forms required by HUD Headquarters. Further, this redelegation does not confer authority to waive the requirement that HAs maintain program accounts in accordance with HUD regulations, or to waive provisions in Notices of Funding Availability.

EFFECTIVE DATE: September 21, 1995.

FOR FURTHER INFORMATION CONTACT: With respect to conflict of interest prohibitions, contact Madeline Hastings, Director, Office of Rental Assistance, Department of Housing and Urban Development, Room 4226, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–1842. With respect to directives, contact Mildred M. Hamman, Directives Management Officer, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4244, 451 7th Street, SW., Washington, DC, telephone (202) 708–0846. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989) (HUD Reform Act), amended section 7 of the Department of Housing and Urban Development Act (42 U.S.C. 3535 (HUD Act) by adding section 7(q), governing circumstances upon which the Department may issue waivers of regulations and handbooks. According to section 7(q)(2), only an individual of Assistant Secretary rank or the equivalent may waive a regulation. This redelegation of authority does not include the authority to waive regulations.

On April 22, 1991, at 56 FR 16337, HUD published a Statement of Policy implementing Section 106 of the HUD Reform Act. The new notice stated that although new section 7(q)(4) of the HUD Act addressed only "handbooks", HUD would apply this term to all Departmental directives in order to give section 7(q)(4) "the widest possible coverage." Therefore, the term "directive" was defined in the notice as follows:

> Directives means a Handbook (including a change or supplement), notice, interim notice, special directive, and any other issuance that the Department may classify as a directive.

The Policy Statement also indicated that the authority to waive directives may be delegated to any officer or employee in the issuing official's organization, as well as to any officer or employee in a field or regional office.

With respect to handbooks, section 7(q)(4) states that a waiver of a provision of a handbook must:

(A) Be in writing;

(B) Specify the grounds for approving the waiver; and

(C) Be maintained in indexed form and made available for public inspection for not less than the 3-year period beginning on the date of the waiver.

The current process of reviewing requests to waive directives in Headquarters frequently adds an unnecessary layer to a procedure that can be adequately carried out at the HUD Field Office level. Officials in the HUD Field Offices are often best situated to assess and react promptly to requests for relief from administrative requirements of general application, where specific circumstances, unanticipated under the directive, warrant a departure from the ordinary standard.

Therefore, in keeping with the objectives of the Secretary of Housing and Urban Development to improve the efficiency and enhance the productivity of the Department, the Assistant Secretary for Public and Indian Housing is redelegating the authority to waive directives and Section 8 conflict of interest prohibitions.

Pursuant to 24 CFR 0.735–104 and 0.735–106 and HUD's Supplemental Standards of Conduct regulation, only the General Counsel may waive violations of HUD's Standards of Conduct regulations, including conflict of interest provisions. The General Counsel may not redelegate the authority to issue waivers of the Standards of Conduct for HUD employees. The Field Offices may not grant waivers for conflicts of interest for HUD employees under program contracts or 24 CFR 982.161. Therefore, this redelegation does not grant any authority to waive HUD's Standards of Conduct regulations, including waiving conflicts of interest for HUD employees.

For example, pursuant to 24 CFR 0.735–204(4), with certain exceptions, a HUD employee may not own a financial interest in any Section 8 subsidy provided to or on behalf of a tenant of property owned by the employee. If a HUD employee seeks a waiver to obtain or retain an interest in a Section 8 subsidy, the General Counsel must grant or deny the employee's request. The Field Offices do not have authority to grant or deny the request.

All Office Directors and Administrators to whom waiver authority for directives and/or conflicts of interest prohibitions are hereby redelegated are cautioned against the development of local requirements, processes, or procedures to replace those that are waived, which would counteract the intent of the established waiver process or the intent of any HUD regulation.

Accordingly, the Assistant Secretary for Public and Indian Housing redelegates as follows:

Section A. Authority to waive directives

(1) The Assistant Secretary for Public and Indian Housing redelegates to HUD State and Area Office Directors of the Offices of Public Housing and to the Administrators of the Field Offices of Native American Programs (waiver officials) the authority to waive Office of Public and Indian Housing directives for Public Housing, Indian Housing and Section 8 programs.

(2) Paragraph (1) does not grant authority to waive:

a. Any statutory or regulatory provision.

b. Program contracts and other forms required by HUD Headquarters.

c. A directive that requires a HUD Office action;

d. Requirements to maintain complete and accurate accounts and other records for a program in accordance with HUD requirements and in the form required by HUD.

e. Reporting requirements.

f. Provisions in a Notice of Funding Availability and associated processing instructions;

g. Any actual or potential conflict of interest on the part of a HUD employee.

Section B. Authority to Waive Prohibitions on Conflicts of Interest

(1) The Assistant Secretary for Public and Indian Housing redelegates to HUD State and Area Office Directors of the Offices of Public Housing and to the Administrators of the Offices of Native American Programs (waiver officials) the following authority to waive conflict of interest prohibitions in contracts executed under the Section 8 Rental Certificate and Rental Voucher Programs and the Section 8 Moderate Rehabilitation Program:

(a) In the case of the Section 8 Rental Certificate and Rental Voucher Programs, the authority to waive the conflict of interest prohibition for good cause in accordance with section 982.161, including the authority to waive related contractual conflict of interest prohibitions for non-HUD employees.

(b) In the case of the Section 8 Moderate Rehabilitation Program the authority to waive contractual conflict of interest prohibitions for non-HUD employees.

(2) Paragraph (1) does not grant authority to waive;

a. Any statutory or regulatory provision.

b. Program contracts and other forms required by HUD Headquarters.

c. A directive that requires a HUD Office action;

d. Requirements to maintain complete and accurate accounts and other records for a program in accordance with HUD requirements and in the form required by HUD.

e. Reporting requirements.

f. Provisions in a Notice of Funding Availability and associated processing instructions;

g. Any actual or potential conflict of interest on the part of a HUD employee.

C. Procedures for Approval of a Waiver of a Directive or a Section 8 Conflict of Interest Prohibition

1. Before approval of a request for a waiver of a directive or a conflict of interest prohibition, the waiver official must consult with and obtain the concurrence of the HUD counsel in the HUD Field Office.

2. HUD Offices shall advise public housing agencies and Indian Housing Authorities (housing agencies) to submit the following documentation when requesting a waiver of a conflict of interest prohibition for Section 8 Rental Certificate and Rental Voucher Programs or the Section 8 Moderate Rehabilitation Program:

a. A complete statement of facts in the case.

b. Justification for the waiver of the conflict of interest prohibition.

If the case involves a hardship for a particular family, a statement of facts of the case, including: (a) circumstances of hardship, and (b) alternative housing available under the same or other forms of assisted housing. A "hardship" case includes a case where an eligible in-place family is handicapped, elderly or includes many minors, and moving would be a burden or very difficult because of a shortage of available units meeting housing quality standards.

If the case involves a public official, member of a governing body, State or local legislator, or any member of the Congress of the United States, an explanation of the individual's duties under Federal, State or local law, including reference to any responsibilities that involve the Section 8 program to which the requested waiver relates. Where relevant, the interrelationship of city, county, State and Federal governments should be discussed.

If the case involves an employee or a tenant of the housing agency, there should be an explanation of the responsibilities and duties of the job involved. (An employee would be permitted to receive Section 8 assistance or participate as a Section 8 owner, if the employee is not serving in a capacity which would influence housing agency decision or formulate policy with respect to the Section 8 program. Also, Section 8 tenants may be employed by the housing agency in such nonpolicy and nondecisionmaking positions.) The explanation must describe whether the employee formulates policy or influences decisions with respect to the program. (A PHA employee who is not serving in a capacity to influence housing agency decisions or formulate policy with respect to the Section 8 program may receive assistance or participate as a Section 8 owner.).

If the case involves an investment on the part of an officer or employee of the PHA, or any other non-HUD employee covered by the conflict of interest provisions, the nature of the investment should be described, and any divesture plans specified.

c. Written evidence that the waiver, if granted, would be consistent with State law and local ordinances. Where appropriate, a legal opinion should be obtained from the State Attorney General or housing agency attorney.

d. In cases where a waiver is approved to permit an individual to occupy a specific unit, the waiver should terminate when that tenant vacates the unit. In addition, no person for whom a waiver is approved shall be given any preferential treatment, nor shall any such person be permitted to exercise functions or responsibilities with respect to a contract to which that person is a party or recipient of a benefit resulting from the contract.

3. HUD Office processing of requests for waiver directives or conflict of interest prohibitions shall be guided by the following:

a. A waiver shall be granted only on a case-by-case basis. For each request, there must be a showing or other evidence of "good cause" which demonstrates that the major interest of providing low income housing overrides the purpose of the directive or conflict of interest prohibitions. The HUD Office shall permanently maintain a fully documented separate file for each waiver.

b. The Field Office must inform the housing authority in writing of its decision regarding the waiver request, and of the basis for the HUD Office determination. Within 30 calendar days after issuance of the waiver, waiver officials must submit a copy of each determination granting a waiver to the Departmental Directives Management Office, Office of Administrative and Management Services-ACES, Office of Administration. A copy should be provided to the Office of Public and Indian Housing, Attention: Directives Management Officer. Copies of waivers of conflicts of interest do not require submission to Headquarters.

c. The Field Office letter approving the waiver must cite the specific directive or conflicts prohibition being waived, the specific conduct being permitted, the time period the waiver shall be in effect (if not indefinitely), as well as the reason(s) for granting the waiver. This is because HUD maintains a record of all such waivers and makes them available for public inspection. The Office of Public and Indian Housing will periodically review all waivers of directives to assess such matters as (a) Whether a particular directive, or provision should be revised (because for example, the exception should become the rule), and (b) whether there is consistency in the granting of waiver requests.

Section D. No Further Redelegation

The authority granted to waiver officials under this redelegation may not be further redelegated pursuant to this redelegation.

Section E. Authority Superseded

The portions of the following delegations of authority relating to Directives and conflict of interest

prohibitions described above are superseded; 36 F.R. 5004 (March 16, 1971), 36 FR 5005 (March 16, 1971), 38 FR 8011 (March 27, 1973), 41 FR 24755 (June 18, 1976), 45 FR 54143 August 14, 1980, 59 FR 8266 (February 18, 1994).

Authority: Section 7(d), Department of Housing and Urban Development Act [42 U.S.C. 3535(d)], and Section 7(q), Department of Housing and Urban Development Act (42 U.S.C. 3535(q).

Dated: September 21, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing and Urban Development.

[FR Doc. 95–24228 Filed 9–28–95; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–094–05–6310–04: G5–223]

Emergency Closure of Public Lands; Douglas County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency closure of public lands and access roads in Douglas County, OR.

SUMMARY: Notice is hereby given that certain public lands and access roads in Douglas County, Oregon are temporarily closed to all public use, including vehicle operation, camping, shooting, hiking and sightseeing, from September 26, 1995 through May 31, 1996. The closure is made under the authority of 43 CFR 8364.1.

The public lands affected by this emergency closure are specifically identified as follows:

Willamette Meridian, Oregon

T. 19 S., R. 8 W.
Sec. 7: All that portion of Section 7 lying North and West of Dunn Ridge Road (BLM Road No. 18–8–28.1) and lying North and East of BLM Road. No. 19–8–7

All roads on the public lands listed above are closed as specified above, including specifically BLM Roads Nos. 19–8–7.2, 19–8–7.3 and 19–8–7.4.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees; state, local and federal law enforcement and fire protection personnel; the holders of BLM road use permits that include roads within the closure area; the purchaser of BLM timber within the closure area and its employees and subcontractors. Access by additional parties may be allowed, but must be approved in advance in writing by the Authorized Officer.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

The public lands and roads temporarily closed to public use under this order will be posted with signs at points of public access.

The purpose of this emergency temporary closure is to protect persons from potential harm from logging operations, protect valuable public timber resources from unauthorized damage, and to facilitate authorized timber harvest operations.

DATES: This closure is effective from September 26, 1995 through May 31, 1996.

ADDRESSES: Copies of the closure order and maps showing the location of the closed lands and roads are available from the Eugene District Office, P.O. Box 10226 (2890 Chad Drive), Eugene, Oregon 97440.

FOR FURTHER INFORMATION CONTACT: Terry Hueth, Coast Range Area Manager, Eugene District Office, at (503) 683–6600.

Dated: September 25, 1995.

Terry Hueth,

Coast Range Area Manager.

[FR Doc. 95–24252 Filed 9–28–95; 8:45 am]

BILLING CODE 4310–33–P

[NM–932–4120–05; OKNM 93019]

Invitation to Participate; Exploration for Coal in Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Members of the public are hereby invited to participate with Farrell-Cooper Mining Company on a pro rata cost sharing basis, in a program for the exploration of coal deposits owned by the United States of America. The lands are located in LeFlore County, Oklahoma, and are described as follows:

Indian Meridian

T. 8 N., R. 26 E., LeFlore Co., OK
Sec. 12, S½S½;
Sec. 13, N½;
Sec. 14, NE¼, S½NW¼, N½SW¼;
Sec. 15, N½SE¼ and SW¼SE¼;
Sec. 21, N½NE¼;
Sec. 22, NW¼NW¼;
T. 8 N., R. 27 E.,
Sec. 7, S½NE¼SW¼, S½SW¼, and SE¼;
Sec. 8, SW¼ and N½N½SE¼;
Sec. 9, S½N½ and N½N½S½;
Sec. 10, SW¼NW¼ and NW¼SW¼;
Aggregating 1,820.00 acres, more or less.

Interested parties may obtain a complete description of the lands covered in the license application by contacting Farrell-Cooper Mining Company, P.O. Box 11050, Ft. Smith, Arkansas 72917–1050, or the Bureau of Land Management New Mexico State Office, Land and Mineral Support Team, Solid Minerals Adjudication, P.O. Box 27115, Santa Fe, New Mexico 87502–0115.

Any parties electing to participate in this exploration program shall notify in writing, both the State Director, Bureau of Land Management, New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87202–0115, and Farrell-Cooper Mining Company, P.O. Box 11050, Ft. Smith, Arkansas 72917–1050. Such written notice must include a justification for wanting to participate and any recommended changes in the exploration plan with specific reasons for such changes. The notice must be received no later than 30-calendar days after the publication of this notice in **Federal Register**.

This proposed exploration program is for the purpose of determining the quality and quantity of the coal in the area and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management.

A copy of the exploration plan as submitted by Farrell-Cooper Mining Company may be examined at the Bureau of Land Management, New Mexico State office, 1474 Rodeo Road, Santa Fe, New Mexico 87502, the Bureau of Land Management, Tulsa District Office, 9522–E 47th Place, Tulsa, Oklahoma 74145–7223, or the Bureau of Land Management, Oklahoma Resource Area Office, 221 N. Service Road, Moore, Oklahoma 73160–4946.

Dated: September 18, 1995.

Gilbert J. Lucero,

Acting State Director.

[FR Doc. 95–24193 Filed 9–28–95; 8:45 am]

BILLING CODE 4310–FB–M

[NV–030–95–1610–00]

Sierra Front/Northwestern Great Basin Resource Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Sierra Front/Northwestern Great Basin Resource Advisory Council.

SUMMARY: The Sierra Front/Northwestern Great Basin Resource Advisory Council will conduct a field

orientation session on October 16, 1995. Council members will meet at 8 a.m. at the Bureau of Land Management's Nevada State Office, located at 850 Harvard Way, Reno, Nevada. The session is open to the public. Any public attendees must provide their own transportation and meals. The primary topic of the session will be how to determine the functionality of uplands and riparian zones. Members of the public wishing to take part in the session should notify the Carson City District Office no later than October 13, 1995.

FOR FURTHER INFORMATION CONTACT: Cub Wolfe, Carson City District, Bureau of Land Management, 1535 Hot Springs Road, Carson City, Nevada 89706, phone (702) 885–6100.

Dated this 25th day of September, 1995.

John Singlaub,

District Manager, Carson City District.

[FR Doc. 95–24255 Filed 9–28–95; 8:45 am]

BILLING CODE 4310-HC-M

[NV–930–3130–00; N–59066]

Notice of Realty Action: Corrected lease/conveyance notice for Recreation and Public Purposes, N–59066

AGENCY: Bureau of Land Management, Interior.

ACTION: Corrected Recreation and Public Purpose Lease/conveyance notice.

SUMMARY: The notice of realty action published February 27, 1995, page 10608, identifies public lands requested by Clark County, Nevada. This notice is corrected as follows:

a. Under Summary, 18th line down, "38 34" should read "38.34".

b. Under Summary, 9th paragraph, 17th line, remove "P.O. Box 26569".

c. Under Summary, 9th paragraph, 18th line, "89126" should read "89108".

d. Under Classification Comments, 3rd line, last word "church" should read "maintenance operations".

e. Under Application Comments, 9th line, "church" should read "maintenance operations".

No additional comment period is required. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Dated: September 15, 1995.

Michael Dwyer,

District Manager, Las Vegas, NV.

[FR Doc. 95–24180 Filed 9–28–95; 8:45 am]

BILLING CODE 4310-HC-M

[UT–040–02–4212–14; UTU–72794]

Notice of Availability and Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Notice is hereby given that an environmental assessment and proposed plan amendment for the Cedar, Beaver, Garfield, Antimony Resource Management Plan have been completed. Pursuant to this environmental assessment and proposed plan amendment, 20 acres of public land have been found suitable for direct sale, under the authority of section 203 of the Federal Land Policy and Management Act of 1976, to Sheldon J. and Rita F. Jessup at the appraised fair market value of $6,500. This land is located at Salt Lake Meridian, T. 29 S., R. 8 W., sec. 20, W½W½SW¼SE¼ and sec. 29, W½W½NW¼NE¼, Beaver County, Utah. The land will not be offered for sale until at least 60 days after the date of this notice and is contingent upon the signing of a decision record approving the proposed amendment.

DATES: The proposed plan amendment may be protected. The protest period will commence with the date of publication of this notice. Protests must be submitted on or before October 30, 1995. Also for a period of 45 days from September 29, 1995, interested parties may submit comments on the proposed land sale to the District Manager, Cedar City District, at the address below.

ADDRESSES: Protests to the proposed plan amendment should be addressed to the Director (480), Bureau of Land Management, Resource Planning Team, Box 10, 1620 L Street, N.W., Washington, DC 20036, within 30 days after the date of publication of this Notice for the proposed planning amendment. All comments concerning this proposed sale should be addressed to A.J. Meredith, District Manager, Cedar City District, 176 East DL Sargent Drive, Cedar City, UT 84720.

FOR FURTHER INFORMATION CONTACT: Arthur L. Tait at 176 East DL Sargent Drive, Cedar City, UT 84720, telephone (801) 865–3080.

SUPPLEMENTARY INFORMATION: The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from September 29, 1995, whichever occurs first. Only the surface estate will be sold. The patent, when issued, will contain a reservation for all minerals to the United States, together with the right to prospect for, mine and remove the minerals. There will also be reserved to the United States, a right-of-way for ditches or canals constructed by the authority of the United States. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

In the absence of a formal protest to the Director, or timely objections to the District Manager, the proposed plan amendment shall become the final determination of the State Director.

Dated: September 20, 1995.

G. William Lamb,

Acting State Director.

[FR Doc. 95–24182 Filed 9–28–95; 8:45 am]

BILLING CODE 4310-DQ-P

Bureau of Reclamation

Quarterly Status Report of Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of proposed contractual actions that are new, modified, discontinued, or completed since the last publication of this notice on May 22, 1995. The February 1, 1995, notice should be used as a reference point to identify changes. The number in parenthesis corresponds to the number in the February 1, 1995, notice. This notice is one means in which the public is informed about contractual actions for capital recovery and management of project resources and facilities. Additional Bureau of Reclamation (Reclamation) announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract

proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Alonzo Knapp, Manager, Reclamation Law, Contracts, and Repayment Office, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; telephone 303–236–1061 extension 224.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273) and 43 CFR 426.20 of the rules and regulations published in 52 FR 11954, Apr. 13, 1987, Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Pursuant to the "Final Revised Public Participation Procedures" for water resource-related contract negotiations, published in 47 FR 7763, Feb. 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. Each proposed action is, or is expected to be, in some stage of the contract negotiation process in 1995. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior or, pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or area office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to: (i) The significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. As a minimum, the regional director shall furnish revised contracts to all parties who request the contract in response to the initial public notice.

Acronym Definitions Used Herein

(BCP) Boulder Canyon Project
(CAP) Central Arizona Project
(CUP) Central Utah Project
(CVP) Central Valley Project
(CRSP) Colorado River Storage Project
(D&MC) Drainage and Minor Construction
(FR) Federal Register
(IDD) Irrigation and Drainage District
(ID) Irrigation District
(M&I) Municipal and Industrial
(O&M) Operation and Maintenance
(P-SMBP) Pick-Sloan Missouri Basin Program
(R&B) Rehabilitation and Betterment
(SRPA) Small Reclamation Projects Act
(WCUA) Water Conservation and Utilization Act
(WD) Water District

The following contract actions are either new, modified, discontinued, or completed in the Bureau of Reclamation since the February 1, 1995, **Federal Register** notice.

Pacific Northwest Region: Bureau of Reclamation, 1150 North Curtis Road, Boise, Idaho 83706–1234, telephone 208–378–5346.

1. New Contract Actions:

(21) Fremont-Madison Irrigation District, Minidoka Project, Idaho-Wyoming: Supplemental and amendatory contract providing for the transfer of operation and maintenance for the remaining reserved works of the Upper Snake Storage Division (including Cascade Creek Diversion Dam, Grassy Lake Dam and Reservoir, and Island Park Dam and Reservoir).

(22) North Unit Irrigation District, Deschutes Project, Oregon: Warren Act contract with cost of service charge to allow for use of project facilities to convey nonproject water.

2. Contract Actions Completed:

(18) Part Completed: Temporary water service contracts executed with Hermiston, Stanfield, and Westland Irrigation Districts to provide water service for 1995 to lands outside their boundaries.

Mid-Pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5030.

1. New Contract Actions:

(24) City of Folsom, CVP, California: Amendment of existing water rights conveyance contract to allow for delivery of an additional 5,000 acre-feet of water from Folsom Reservoir that has been acquired from the Southern California Water Company.

(25) Napa County Flood Control and Water Conservation District, Solano Project, California: Amend water service contract to decrease quantity.

(26) City of Roseville, CVP, California: Execution of a long-term Warren Act contract for conveyance of nonproject water provided from the Placer County Water Agency. This contract will allow CVP facilities to be used to deliver nonproject water to the City of Roseville for use within their service area.

(27) Sacramento Municipal Utility District, CVP, California: Amendment of existing water service contract to allow for additional points of diversion, and assignment of up to 15,000 acre-feet of project water to the Sacramento County Water Agency. The amended contract will conform to current Reclamation law.

2. Contract Actions Modified:

(21) San Juan Water District, CVP, California: Execute Warren Act contract to replace expiring long-term wheeling contract with San Juan WD and the Placer County Water Agency allowing the Agency to use CVP facilities to deliver its water to the District for use on District land within Placer County.

3. Contract Actions Completed:

(12) Central Coast Water Authority, Cachuma Project, California: Long-term Warren Act contract for use of Cachuma Project facilities when excess capacity exists. Approximately 13,750 acre-feet of water per year from the California State Water Project will be made available under a Warren Act contract to users along the South Coast of

California. ACTION: Contract executed July 25, 1995.

(17) Monterey County Water Resources Agency, Castroville Irrigation Water Supply Project, SRPA, California: Loan repayment contract in the amount of $32,600,000 to construct an irrigation distribution system to convey reclaimed water for agricultural purposes and to reduce seawater intrusion in the groundwater aquifers. ACTION: Contract executed May 26, 1995.

(18) Monterey Regional Water Pollution Control Agency, Water Reclamation Facility for Crop Irrigation Project, SRPA, California: Loan repayment contract in the amount of $20,544,400 to reduce seawater intrusion in the groundwater aquifers. ACTION: Contract executed June 2, 1995.

(19) Santa Barbara County Water Agency, Cachuma Project, California: Renewal of existing long-term water service contract which expires May 14, 1995; water quantity in existing contract 32,000 acre-feet. ACTION: Interim renewal contract executed April 25, 1995.

Lower Colorado Region: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8536.

1. New Contract Actions:

(41) Department of the Navy, Niland, CA. Contract for delivery of up to 23 acre-feet per year of California surplus water for domestic use.

(42) Windsor Beach State Park, Lake Havasu City, AZ. Contract for 130 acre-feet entitlement to Colorado River domestic water.

(43) Maricopa-Stanfield Irrigation & Drainage District, Stanfield, AZ. District has requested the United States to defer payments and restructure its $78 million distribution system repayment obligation.

(44) McMicken ID/City of Surprise, AZ. Amend McMicken's CAP subcontract to reduce its entitlement by 4,500 acre-feet and execute a CAP water service subcontract with the City of Surprise for 4,500 acre-feet of CAP water.

(45) McMicken, ID/Avondale, AZ. Amend McMicken's CAP subcontract to reduce its entitlement by 647 acre-feet and amend Avondale's CAP water service subcontract to increase its entitlement by 647 acre-feet of CAP water.

(46) Kent Sea Farms, Yuma, AZ. Contract to divert and return 32,000 acre-feet of water per year from and to, respectively, the Main Outlet Drain Extension for one or more fish farms.

(47) New Magma Irrigation and Drainage District, Phoenix, AZ, Central Arizona Project. Amend and Supplement distribution system repayment Contract No. 4–07–30–W0049 to reschedule repayment terms pursuant to U.S. Bankruptcy Court, District of Arizona, Judgement No. B–94–00211–TUC-JMM, June 20, 1995.

(48) San Tan Irrigation District, Chandler Heights, AZ, CAP. Amend distribution system repayment Contract No. 6–07–30–W0120 to increase the repayment obligation approximately $168,000.

(49) Chandler Heights Citrus Irrigation District, Chandler Heights, AZ, CAP. Amend distribution system repayment Contract No. 6–07–30–W0119 to increase the repayment obligation approximately $114,000.

(50) Central Arizona Drainage and Irrigation District, Phoenix, AZ, CAP. Amend distribution system repayment Contract No. 4–07–30–W0048 to reschedule repayment terms pursuant to U.S. Bankruptcy Court, District of Arizona.

(51) Arizona Sierra Utility Company, Phoenix, Arizona, CAP. Assignment to the Town of Florence of 407 acre-feet of CAP municipal and industrial water allocation under subcontract from Central Arizona Water Conservation District.

(52) San Diego County Water Authority, San Diego, California, San Diego Project: Title transfer to the Second Barrel, San Diego Aqueduct composed of over 70 miles of pipeline 4.5 to 8 feet in diameter and related facilities and rights of way.

(53) W.F. West, Winslow, Arizona, Boulder Canyon Project: Miscellaneous Present Perfected Rights contract for 0.8774 acre-feet of domestic water.

(54) Julia Soto Zozaya and Steve M. Zozaya, Mohave County, Arizona, Boulder Canyon Project: Miscellaneous Present Perfected Rights contract for 720 acre-feet of irrigation water.

(55) Atchison, Topeka and Santa Fe Railway Company, BCP, California. The company intends to transfer its miscellaneous present perfected rights for the diversion of 1,260 acre-feet and consumptive use of 273 acre-feet of Colorado River water to the City of Needles.

(56) The Gas Company, BCP, California. Short-term water delivery contract for 125 acre-feet of surplus Colorado river water for domestic and industrial water use near the City of Needles, California.

2. Contract Actions Discontinued:

(21) City of Yuma, BCP, AZ. Amendment to Contract No. 1–4–06–W–106. ACTION: The City of Yuma declined to amend its contract.

3. Contract Actions Completed:

(7) Ft. Yuma Indian Reservation (Quechan Indian Reservation), Yuma Project, AZ and CA. Surplus water contract to receive Colorado River water in the states of Arizona and California. The contract may include surplus and unused apportionment entitlements (51,616 acre-feet or 7.743 acres, whichever is less) and wheeling arrangements with Bard ID. ACTION: Completed by letter dated May 18, 1995.

(16) Elsinore Valley Municipal WD, Temescal Valley Project, SRPA, CA. ACTION: Contract executed.

(26) Santa Ana Watershed Project Authority, SRPA, CA. Chino Basin Desalination Program. ACTION: Contract executed.

(27) Gila River Indian Community/Gila River Farms, CAP, Arizona. Repayment/deferment/O&M contract for distribution system not to exceed $4 million. Execution of this contract facilitates construction under Public Law 93–638 funding and work performance contract. ACTION: Contract executed.

Upper Colorado Region: Bureau of Reclamation, P.O. Box 11568 (125 South State Street), Salt Lake City, Utah 84147, telephone 801–524–5435.

1. New Contract Actions:

(17) Salt Lake County Water Conservancy District and Central Utah Water Conservancy District, Central Utah Project, Utah. Contract to provide the Bureau of Reclamation with perpetual use of 7,900 acre-feet of water annually for storage in the Jordanelle Reservoir.

(18) Grand Valley Water Users Association, Orchard Mesa Irrigation District and Public Service Company of Colorado, Grand Valley Project, Colorado. Water service contract for the utilization of project water for cooling purposes for a steam electric generation plant.

(19) Public Service Company of New Mexico, Colorado River Storage Project, Navajo Unit, New Mexico. Amendatory water service contract for diversion of 20,200 acre-feet, not to exceed a depletion of 16,200 acre-feet of project water for cooling purposes for a steam electric generation plant.

(20) Provo Reservoir Water Users Company, Wasatch Irrigation Company, Timpanogas Irrigation Company, Exchange Irrigation Company, Washington Irrigation Company, and the City of Provo; Central Utah Project, Utah: Water exchange contracts, water rights in several mountain lakes and reservoirs are being exchanged for

equivalent contract water rights in Jordanelle Reservoir.

(21) Sanpete County Water Conservancy District, Narrows Project, Utah: Application for a Small Reclamation Project Act loan and grant to construct a dam, reservoir and pipeline to annually supply approximately 5,000 acre-feet of water through a transmountain diversion from upper Gooseberry Creek in the Price River drainage (Colorado River Basin) to the San Pitch—Sevier River (Great Basin).

(22) Dodds Ditch Water Users, Central Utah Project, Utah. Contracts for exchange of water rights and sale of project water; water rights in Ashley Creek for 30 acre-feet of project water from Steinaker Reservoir.

(23) Highland Conservation District, Provo River Project, Utah. Water transfer agreement between the District and Highland City involving change of use from irrigation to municipal and industrial.

Great Plains Region: Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone 406–657–6413.

1. New Contract Actions:

(27) Enders Dam, Frenchman-Cambridge Division, Frenchman Unit, Nebraska: Repayment contract for proposed Safety of Dams modifications to Enders Dam for repair of seeping drainage features. Estimated cost of the repairs is $632,000.

(28) Belle Fourche Irrigation District, Belle Fourche Unit, P-SMBP, South Dakota: D&MC contract for rehabilitation work on water control structures, lining additional canals, and rehabilitation of bridges and laterals. Public Law 103–434, enacted October 31, 1994, authorized an additional $10.5 million in Federal funds and $4 million in non-Federal cost share for completion of the minor construction.

1. Contract Actions Discontinued:

(9) Chinook Water Users Association, Milk River Project, Montana: SRPA contract for loan of up to $6,000,000 for improvements to the Association's water conveyance system.

(14) Hidalgo County Irrigation District No. 6, Texas: SRPA contract for a 20-year loan for up to $5,712,900 to rehabilitate the District's irrigation facilities pending appropriation of funds.

(16) Thirty Mile Canal Company, Nebraska: SRPA contract for a loan of $2,264,000 to reline the main canal, replace open laterals with buried pipe, and replace bridges pending appropriation of funds.

2. Contract Actions Modified:

(12) Canadian River Municipal Water Authority, Canadian River Project, Texas: Determination of no authority for credit for transferred lands.

(13) Lakeview Irrigation District, Shoshone Project, Wyoming: New long-term water service contract for up to 3,200 acre-feet of firm water supply annually and up to 11,800 acre-feet of interim water from Buffalo Bill Reservoir. Pursuant to Section 9(e) of the Reclamation Project Act of 1939 (Public Law 260).

(17) Belle Fourche Irrigation District, Belle Fourche Unit, P-SMBP, South Dakota. Amendment to Contract No. 5–07–60–WR170. The amendment will initiate the repayment period for the rehabilitation and betterment work to begin June 30, 1996. The Amendment will also provide an additional $10.5 million for additional rehabilitation and betterment work.

(18) North Platte Project, Kendrick Project, and Glendo Project, P-SMBP, Wyoming and Nebraska contractors: Repayment contracts under the Safety of Dams Project for the modification of Pathfinder, Lake Alice, Seminoe, and Glendo Dams.

(21) Mountain Park Master Conservancy District, Mountain Park Project, Oklahoma: Pursuant to Title IV of Public Law 103–434, amend the District's contract to reallocate the project costs to reflect the environmental activities authorized by Title IV and provide for a discounted prepayment of all or a portion of the reimbursable costs allocated for its M&I water supply.

(25) Angostura Irrigation District, Angostura Unit, P-SMBP: The District's current contract for water services expired on January 1, 1995. The current contract also provided for the District to operate and maintain the dam and reservoir. The proposed contract would provide a continued water supply for the District and the District's continued operation and maintenance of the facility.

(26) West River Conservancy Sub-District, Shadehill Unit, P-SMBP, South Dakota: Water service contract expired June 10, 1995. The proposed contract would provide irrigation water to the District pursuant to terms acceptable to both the United States and the District.

Dated: September 25, 1995.

Wayne O. Deason,

Assistant Director, Program Analysis.

[FR Doc. 95–24254 Filed 9–28–95; 8:45 am]

BILLING CODE 4310–94–P

Bay-Delta Advisory Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet to discuss several issues including: review of the CALFED Bay-Delta Program's problem definition, objectives, mission and geographic scope; discussion of causes and actions related to the problems in the Delta; and other program components. The meeting is open to the public. Interested persons may make oral statements to the BDAC or may file written statements for consideration.

DATES: The Bay-Delta Advisory Council will meet from 10:00 am to 4:00 pm on Wednesday, October 18, 1995.

ADDRESSES: The Bay-Delta Advisory Council will meet at the Holiday Inn Oakland/San Francisco Bay Bridge, 1800 Powell Street, Emeryville, CA 94608.

FOR FURTHER INFORMATION CONTACT: Sharon Gross, CALFED Bay-Delta Program, at (916) 657–2666.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the State of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta Estuary. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta Estuary are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta Estuary related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort will be carried out under the policy direction of CALFED. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long term solutions for the problems affecting the Bay-Delta Estuary has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on the program mission, problems to be

addressed, and objectives for the CALFED Bay-Delta Program. BDAC will also provide a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff.

Minutes of the meeting will be maintained by the CALFED Bay-Delta Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: September 22, 1995.

Roger Patterson,

Regional Director, Mid-Pacific Region.

[FR Doc. 95–24167 Filed 9–28–95; 8:45 am]

BILLING CODE 4310–94–M

Fish and Wildlife Service

Availability of Draft Recovery Plan for the Koolau Mountain Plant Cluster for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of the Technical/Agency Draft Recovery Plan for the Koolau Mountain Plant Cluster. There are 11 taxa of plants included in this plan. All 11 taxa are known to be extant on the island of Oahu, Hawaii; one species also is found on the islands of Molokai and Maui, Hawaii.

DATES: Comments on the draft recovery plan must be received on or before November 28, 1995.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (phone 808/541–2749); U.S. Fish and Wildlife Service, Regional Office, Ecological Services, 911 N.E. 11th Ave., Eastside Federal Complex, Portland Oregon 97232–4181 (phone 503/231–6131); the Molokai Public Library, 15 Ala Malama Street, Kaunakakai, Hawaii 96748 (phone 808/553–5483); and, the Wailuku Public Library, 251 High Street, Wailuku, Maui (phone 808/244–3945). Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to Brooks Harper, Field Supervisor, Ecological Services, at the above Honolulu address.

FOR FURTHER INFORMATION CONTACT: Scott M. Johnston, Fish and Wildlife Biologist, at the above Honolulu address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised Recovery Plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The 11 taxa being considered in this recovery plan are: *Chamaesyce deppeana* ('akoko), *Cyanea crispa* (no common name (NCN)), *Cyanea truncata* (haha), *Cyrtandra crenata* (ha'iwale), *Cyrtandra polyantha* (ha'iwale), *Eugenia koolauensis* (nioi), *Hesperomannia arborescens* (NCN), *Lobelia oahuensis* (NCN), *Melicope lydgatei* (alani), *Phlegmariurus nutans* (wawae'iole), *Tetraplasandra gymnocarpa* ('ohe'ohe).

All 11 species covered in this plan are listed as endangered. Ten of the 11 taxa are known to be extant only on the island of Oahu, Hawaii; one species, *Hesperomannia arborescens*, also is found on the islands of Molokai and Maui. The 11 plant taxa and their habitats have been variously affected and are threatened by one or more of the following: Habitat degradation and/or predation by feral ungulates (goats, pigs, sheep, and cattle); competition for space, light, water, and nutrients by naturalized, alien vegetation; habitat loss from fires; predation by rats; human recreational activities; and military training exercises. Because of the depauperate number of extant individuals and their severely restricted distributions, populations of these taxa are subject to an increased likelihood of extinction from stochastic events.

All 11 of these taxa are known from the Koolau Mountains on the eastern portion of Oahu. The 11 taxa included in this plan grow in lowland and mesic forests, and in dry and wet moisture regimes.

The objective of this plan is to provide a framework for the recovery of these 11 taxa so that their protection by the Endangered Species Act (ESA) is no longer necessary. Immediate actions necessary for the prevention of extinction of these taxa include fencing for exclusion of ungulates, alien plant control, protection from fire, population and plant community monitoring and management, ex situ propagation, and augmentation of populations, as appropriate. Long-term activities necessary for the perpetuation of these taxa in their natural habitats additionally include public education, maintenance of fenced areas, long-term monitoring and management of populations and communities, and re-establishment of populations within the historic ranges of some taxa. Further research regarding current range, reproduction and reproductive status, pollinators, life history, limiting factors, habitat requirements, and minimum viable population sizes is needed to facilitate appropriate management decisions regarding the long-term perpetuation of each of these taxa.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of these plans.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 25, 1995.

Thomas J. Dwyer,

Acting Regional Director, U.S. Fish and Wildlife Service, Pacific Region.

[FR Doc. 95–24241 Filed 9–28–95; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the sixteenth meeting of the Gettysburg National Military Park Advisory Commission.

DATE: The Public meeting will be held on October 19, 1995, from 2:00 p.m.–5:00 p.m..

LOCATION: The meeting will be held at Gettysburg Hotel, One Lincoln Square, Gettysburg, Pennsylvania 17325.

AGENDA: Sub-Committee Reports, the Museum Proposal Planning Process, Deer Management, The Advisory Commission's Request to the Department of Interior for Review of Fundraising options for Gettysburg National Military Park, Consistency Review, a Report on Local and Regional Transportation Issues and Operational Update on Park Activities.

FOR FURTHER INFORMATION CONTACT: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Advisory Commission, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Gettysburg National Military Park located at 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: September 15, 1995.

Warren D. Beach,

Associate Field Director, NEFA.

[FR Doc. 95–24312 Filed 9–28–95; 8:45 am]

BILLING CODE 4310–70–M

National Preservation Technology and Training Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting of the National Preservation Technology and Training Board.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that the National Preservation Technology and Training Board will meet on November 7, 8 and 9, 1995, in Natchitoches, Louisiana.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Center for Preservation Technology and Training, as required under the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).

The Board will meet on the campus of Northwestern State University of Louisiana in the Board Room of the Louisiana School for Math, Science and the Arts at 715 College Street, Natchitoches, Louisiana. Matters to be discussed will include the five-year plan for the organization, staff program updates and the FY 96 grant awards.

Tuesday, November 7 and Wednesday, November 8 the meeting will start at 8:30 a.m. and end at 5:00 p.m. On Thursday the meeting will begin at 8:30 a.m. and end at noon. Meetings will be open to the public. However, facilities and space for accommodating members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with Dr. Elizabeth A. Lyon, Chair, National Preservation Technology and Training Board, P.O.Box 1269, Flowery Branch, Georgia 30542.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may do so by contacting Mr. E. Blaine Cliver, Chief, Preservation Assistance Division, P.O. Box 37127, Washington, DC 20013–7127, telephone: (202) 343–9573. Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting at the office of the Preservation Assistance Division, Suite 200, 800 North Capitol Street, Washington, DC.

Dated: September 25, 1995.

E. Blaine Cliver,

Chief, Preservation Assistance Division, Designated Federal Official, National Park Service.

[FR Doc. 95–24311 Filed 9–28–95; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

Agency Information Collection Under OMB Review

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the form and supporting documents may be obtained from the Agency Clearance Officer, Ellen R. Keys, (202) 927–5681. Comments regarding this information collection should be addressed to Ellen R. Keys, Interstate Commerce Commission, 1201 Constitution Avenue, N.W, Room 2221, Washington, DC. 20423–0001 and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for ICC, Washington, DC 20503. When submitting comments, refer to the OMB number or the title of the form.

Type of Clearance: New Form.

Office: Office of Compliance and Enforcement.

Title of Form: Application for Operating Authority by Mexican Carriers provided by the North American Free Trade Agreement.

OMB Form Number: Number not Assigned.

Agency Form Number: OP–1MX.

No. of Respondents: 18,800.

Total Burden Hours: 28,200.

Vernon A. Williams,

Secretary.

[FR Doc. 95–24262 Filed 9–28–95; 8:45 am]

BILLING CODE 7035–01–M

Agency Information Collection Under OMB Review

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the form and supporting documents may be obtained from the Agency Clearance Officer, Ellen R. Keys, (202) 927–5673. Comments regarding this information collection should be addressed to Ellen R. Keys, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, DC. 20423–0001 and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for ICC, Washington, DC 20503. When submitting comments, refer to the OMB number or the title of the form.

Type of Clearance: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Office: Office of Compliance and Enforcement.

Title of Form: Financial Responsibility—Trucking and Freight Forward.

OMB Form Number: 3120–0081.

Agency Form Number: BMC–32, BMC–35, BMC–36, BMC–40, BMC–91, BMC–91X, BMC–34, BMC–82, BMC–83, BMC–84, BMC–85, BMC–90.

No. of Respondents: 45,000.

Total Burden Hours: 82,350.

Vernon A. Williams,

Secretary.

[FR Doc. 95–24263 Filed 9–28–95; 8:45 am]

BILLING CODE 7035–01–P

[Ex Parte No. MC–5 (Sub-No. 12)]

Procedural Change in Authority Revocation Process

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Procedural Change.

SUMMARY: The purpose of this Notice is to announce changes, effective October 15, 1995, in the Commission's internal procedures for revocation of operating authority based upon noncompliance with the financial security provisions of 49 U.S.C. 10927 and 49 CFR 1043.

DATES: The revised internal procedures announced here will apply to insurance, surety bond and trust fund notices of cancellation filed on or after October 15, 1995. Comments must be filed by October 10, 1995.

ADDRESSES: Send comments (an original and 10 copies) referring to: Docket No. Ex Parte No. MC–5 (Sub-No. 12), Procedural Change in Authority Revocation Process, to the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Dixie E. Horton, (202) 927–5520 or Patricia A. Burke, (202) 927–5520. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The Interstate Commerce Act requires that motor carriers, brokers, and household goods freight forwarders must maintain insurance or other security in order to operate in interstate commerce. Under our current insurance and surety compliance program, as soon as we learn that a regulated entity's insurance is about to lapse, we initiate a license revocation proceeding. The revocation process, however, is not completed until 120 days after the date when the security is cancelled. We intend to shorten and simplify the revocation process in order to better protect the public and to make better use of scarce Commission resources without impinging on an authority holder's rights under the statute.

Under the Commission's current revocation process, when the Commission receives a 30-day advance notice of cancellation from an insurer about to cancel a carrier's or a household goods freight forwarder's insurance, or a broker's surety bond or trust fund agreement, it immediately sends a letter to the carrier, forwarder or broker. The letter advises the authority holder of the cancellation date, and it indicates that any operations without insurance are unlawful and that revocation proceedings will begin in the event of failure to comply with insurance requirements. Unless the Commission receives acceptable evidence demonstrating that the authority holder's insurance or security has been renewed by the end of the 30-day advance notification period, the agency institutes a revocation proceeding (first decision). The first decision requires the holder either to show cause why its authority should not be revoked or to achieve compliance within 60 days. After 60 days, if the Commission has not received notification of insurance or broker security renewal, a second decision is issued, establishing a second 60-day compliance period (second decision). If the Commission has not received evidence of an acceptable insurance filing by the end of the second 60-day period, the authority stands revoked. A final notice (third decision) is then issued formally revoking the authority. If, however, compliance is achieved within either of the 60-day periods, a notice of discontinuance of the revocation proceeding is issued.

In our continuing efforts to ensure that our regulatory procedures are performed efficiently and effectively, we have concluded that the current procedure is too labor-intensive, and, because it is so time-consuming, it has the potential for putting the public at unnecessary risk. We do not have sufficient staff to issue 4 documents to complete what ought to be a ministerial process. Moreover, a carrier, broker, or household goods forwarder retains its license for 4 months after its security has lapsed; during that period of time, the public is at risk from uninsured carriers that may continue operating—albeit unlawfully—under color of their license. Shortening our revocation procedures will conserve scarce resources and better protect the public.

Under the revised procedures, upon receipt of the 30-day advance notice of cancellation filed by the insurer, the Commission will issue an initial order to the carrier, broker, or forwarder instituting a revocation proceeding. The order will note the cancellation date and will indicate that any operations without insurance are unlawful. This order will also direct the authority holder either to obtain replacement coverage or to show good cause within 30 days of the service date of the order why its authority should not be revoked. The order will further provide that failure to respond or comply within 30 days of the service date of the order shall result in revocation of its operating rights. In the event that acceptable evidence of insurance is not filed within the 30-day period, or that the authority holder has not shown cause why its authority should not be revoked, a final order will be issued notifying the holder that its operating authority has been revoked.

If the holder achieves compliance within the 30-day period, a notice discontinuing the revocation proceeding will be issued. Pending receipt of the notice, the authority holder will have various options to verify its renewed compliance prior to notification of the discontinuance. It could confirm that we have received acceptable filings by contacting its own insurance company/agent or the Commission's Regional offices, or by accessing the Commission's Automated Response Capability system at (202) 927–7600. Copies of the initial order, and the final revocation order or the notice discontinuing the proceeding will continue to be placed in the authority holder's public docket file.

These procedures—under which a four-step process concluding 120 days beyond an insurance lapse is replaced with a two-step process concluding within a few days after an insurance lapse—will not alter substantive rights and responsibilities. They simply provide for a more effective and expeditious method of protecting the public from operations by uninsured motor carriers, brokers and forwarders by reducing the time period within which operating authorities will be revoked for failure to comply with 49 U.S.C. 10927.[1]

We will provide a brief comment period to enable interested parties to submit written statements or arguments regarding the revised process. Notice of the procedural change will be published in the **Federal Register** and the ICC Register, and interested parties will have 10 days to comment.

Environmental Statement

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10925 and 10927; 49 CFR 1043 and 1084.

Decided: September 25, 1995.

[1] Under section 10927, the holder's authority remains in effect only so long as the holder is in compliance with the security limits.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–24264 Filed 9–28–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–3 (Sub-No. 123X)]

Missouri Pacific Railroad Company—Abandonment Exemption—in Pettis County, MO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the requirements of 49 U.S.C. 10903–04, the abandonment by the Missouri Pacific Railroad Company of 2.16 miles of rail line between milepost 226.84 near Sedalia and milepost 229.0 in Pettis County, MO, subject to: (1) standard labor protection conditions; (2) an historic preservation condition; and (3) a trail use condition.

DATES: The exemption will be effective October 30, 1995 unless stayed or a statement of intent to file an offer of financial assistance (OFA) is filed. Statements of intent to file an OFA under 49 CFR 1152.27(c)(2) and requests for a notice of interim trail use/rail banking under 49 CFR 1152.29 must be filed by October 9, 1995, petitions to stay must be filed by October 16, 1995, requests for a public use condition under 49 CFR 1152.28 must be filed by October 19, 1995, and petitions to reopen must be filed by October 24, 1995.

ADDRESSES: An original and 10 copies of all pleadings referring to Docket No. AB–3 (Sub-No. 123X) must be filed with the: Office of the Secretary, Case Control Branch Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, D.C. 20423. In addition, a copy of all pleadings must be served on petitioner's representatives: Joseph D. Anthofer, General Attorney, and Jeanna L. Regier, Registered ICC Practitioner, 1416 Dodge Street, Room 830, Omaha, NE 68179–0830.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for hearing the impaired (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call or pick up in person from: Dynamic Concepts, Inc., Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: September 19, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–24242 Filed 9–28–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) the agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) who will be asked or required to respond, as well as a brief abstract;

(4) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) an estimate of the total public burden (in hours) associated with the collection; and,

(6) an indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) COPS Supplemental Assistance Request Form.

(2) Form COPS 015/01. Community Oriented Policing Services, United States Department of Justice.

(3) Primary: State, Local, or Tribal Government. Other: None. The COPS Supplemental Assistance Request Form will collect information from agencies holding COPS Phase I, COPS FAST, COPS AHEAD, and COPS MORE grants concerning their requests for supplemental awards in the areas of technology, equipment, personnel, and training. Awards will be made on a one-time basis to supplement current grant awards.

(4) 7500 annual respondents, 0.50 hours per response.

(5) 11,250 annual burden hours.

(6) Not applicable under section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: September 25, 1995.

Kathleen T. Albert,

Acting Department Clearance Officer United States Department of Justice.

FR Doc. 95–24197 Filed 9–28–95; 8:45 am]

BILLING CODE 4410–21–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended,

40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" are listed by Volume and State:

Volume II

MARYLAND
MD950055 (Sep. 29, 1995)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the *Federal Register* are in parentheses following the decisions being modified.

Volume I

CONNECTICUT
CT950001 (Feb. 10, 1995)
CT950003 (Feb. 10, 1995)
CT950004 (Feb. 10, 1995)
MASSACHUSETTS
MA950001 (Feb. 10, 1995)
MA950002 (Feb. 10, 1995)
MA950003 (Feb. 10, 1995)
MA950005 (Feb. 10, 1995)
MA950007 (Feb. 10, 1995)
MA950008 (Feb. 10, 1995)
MA950010 (Feb. 10, 1995)
MA950012 (Feb. 10, 1995)
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NY950026 (Feb. 10, 1995)
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NY950045 (Feb. 10, 1995)
NY950072 (Feb. 10, 1995)

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DELAWARE
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VA950062 (Feb. 10, 1995)
VA950104 (Feb. 10, 1995)
VA950105 (Feb. 10, 1995)
VA950108 (Feb. 10, 1995)
VA950112 (Feb. 10, 1995)

Volume III

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FL950017 (Feb. 10, 1195)
GEORGIA
GA950003 (Feb. 10, 1995)
GA950033 (Feb. 10, 1995)

Volume IV

MICHIGAN
MI950001 (Feb. 10, 1995)
MI950002 (Feb. 10, 1995)
MI950003 (Feb. 10, 1995)
MI950004 (Feb. 10, 1995)
MI950005 (Feb. 10, 1995)
MI950012 (Feb. 10, 1995)
MI950031 (Feb. 10, 1995)
MI950034 (Feb. 10, 1995)
MI950049 (Feb. 10, 1995)
OHIO
OH950002 (Feb. 10, 1995)

Volume V

IOWA
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Volume VI

COLORADO
CO950002 (Feb. 10, 1995)
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CO950021 (Feb. 10, 1995)
CO950022 (Feb. 10, 1995)
CO950023 (Feb. 10, 1995)
CO950024 (Feb. 10, 1995)
CO950025 (Feb. 10, 1995)
HAWAII
HI950001 (Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 22nd day of September 1995.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 95–23972 Filed 9–28–95; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL LABOR RELATIONS BOARD

Notice of Procedures to be Followed in the Event Board Offices are Closed Due to Lack of Appropriated Funds

The National Labor Relations Board is issuing this notice to advise the public of procedures to be followed in the event that Board offices are closed, in compliance with the Antideficiency Act, 31 U.S.C. 1341, *et seq.*, due to the lack of appropriated funds.

1. Tolling of Time for Filing or Serving Certain Documents

In the event the Board's offices are closed due to lack of appropriated funds, the Board hereby grants, sua sponte, an extension of time to file or serve any document for which the grant of an extension of time is permitted by law. The terms of the extension are that for each day on which the agency's offices are closed for all or any portion of the day, one day shall be added to the time for filing or service of the document.

Extensions of time for filing cannot apply to the 6 month period provided by section 10(b) of the Act for the filing of charges, 29 U.S.C. 160(b), or to Applications for awards and fees and other expenses under the Equal Access to Justice Act, 5 U.S.C. 504. However, with respect to time computations for filing and serving charges filed pursuant to section 10(b) or applications filed pursuant to the Equal Access to Justice Act, the Board hereby gives notice of its intention to construe the phrase "Saturday, Sunday, or a legal holiday" in its rules pertaining to filing and service, § 102.111(a), 29 C.F.R. 102.111(a), to encompass any day on which the agency's offices are closed for all or any portion of the day due to lack of appropriated funds.

Notwithstanding the foregoing provisions, persons wishing to file a charge pursuant to section 10(b) of the act, and for whom the 6-month period of Section 10(b) is to expire during the interruption in the Board's normal operations, are cautioned that the operation of Section 10(b) during an interruption in the Board's normal operations is uncertain. Consequently, it would be prudent to attempt to file the charge during the interruption in the Board's operations by following the procedures outlined in the notice set forth below. Moreover, persons filing a charge are reminded that it is their responsibility, pursuant to § 102.14 of the Board's Rules and Regulations, 29 C.F.R. 102.14, to serve a copy of the charge upon the person against whom the charge is made. While Regional Directors ordinarily serve a copy of the charge on the person against whom the charge is made as a matter of courtesy, they do not assume responsibility for such service, and it is unlikely that the agency will be able to serve charges during any period of shutdown due to lack of appropriated funds.

2. Notice To Be Posted in the Event of a Shutdown Due to Lack of Appropriated Funds

In the event the Board's offices are closed due to lack of appropriated funds, the Board intends to post a copy of the following notice at each of its offices to advise the public of procedures to be followed during the period of the shutdown. In addition, a pre-recorded message will be available on the main phone numbers in each of the agency's offices to provide persons with information regarding how to contact the agency during the shutdown.

"This ofice of the National Labor Relations Board is closed due to the lack of a budget appropriatio.

Due to the lack of appropriated funds this office of the National Labor Relations Board is temporarily closed. This office will reopen when sufficient funding has been authorized by law. Only such Government activities necessary to prevent an imminent threat to the safety of human life or the protection of property may be undertaken in the absence of specific budget authority. If there is an imminent threat to the safety of human life or the protection of property as a result of a violation of the National Labor Relations Act, you should contact the _____ Regional Office, _____, at telephone number ( ) _____, FAX Number ( ) _____, for assistance. If the safety of human life or the protection of property is not subject to an imminent threat, you will have to wait until the Office resumes normal operations to be served. [Note: The addresses and phone numbers listed will vary from office to office. All possible choices are listed in part 3 of this **Federal Register** notice, below.]

Timeliness of Charges, Petitions and other papers:

Pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. 160(b), complaint cannot issue on a charge alleging an unfair labor practice violation unless the charge is filed and served within 6 months of the occurrence complained of. The operation of Section 10(b) during an interruption in Agency services as a result of a lack of funds is uncertain. If

the 6-month period of Section 10(b) is to expire during the interruption in the Board's normal operations and your charge has not previously been filed and served, you can attempt to comply with Section 10(b) by serving a copy of the charge on the party charged and filing a copy of the charge with an office of the Board in a timely manner. Filing with the Board for this purpose may include service or attempted service upon the regional office named above by certified mail.

During this period, you can attempt to serve petitions for certifications and all other time-sensitive documents by serving a copy on the proper party or parties and filing a copy of the document with an office of the Board in a timely manner. Filing with the Board for this purpose may include service or attempted service upon the regional office named above by certified mail."

3. Addresses and Phone Numbers of Regional Offices that will be Staffed by Essential Personnel During the Period of Any Shutdown Due to Lack of Appropriated Funds

Region 1—Boston, 10 Causeway St., 6th Floor, Boston MA 02222–1072, Phone: (617) 565–6748, FAX No.: (617) 565–6725

Region 2—Manhattan, 26 Federal Plaza, Room 3614, New York, NY 10278–0104, Phone: (212) 264–0330, FAX No.: (212) 264–8427

Region 7—Detroit, 477 Michigan Avenue, Room 300, Detroit, MI 48226–2569, Phone: (313) 226–3210, FAX No.: (313) 226–2090

Region 10—Atlanta, 101 Marietta St., N.W., Atlanta, GA 30323–3301, Phone: (404) 331–2861, FAX No.: (404) 331–2858

Region 13—Chicago, 200 West Adams St., Chicago, IL 60606–5208, Phone: (312) 353–7608, FAX No.: (312) 886–1341

Region 17—Kansas City, 8600 Farley St., Suite 100, Overland Park, KS 66212–4677, Phone: (913) 236–3001, FAX No.: (913) 236–3010

Region 19—Seattle, 915 2nd Ave, Room 2948, Seattle, WA 98174–1078 Phone: (206) 220–6310, FAX No.: (206) 220–5305

Region 21—Los Angeles, 888 S. Figueroa St., 9th Floor, Los Angeles, CA 90017–5455, Phone: (213) 894–5184, FAX No.: (213) 894–2778

Dated, Washington, DC., September 26, 1995.

By direction of the Board.

John J. Toner,

Acting Executive Secretary, National Labor Relations Board.

[FR Doc. 95–24251 Filed 9–28–95; 8:45 am]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review and continued approval of information collection requirements currently approved by OMB under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 61—Licensing Requirements for Land Disposal of Radioactive Waste.

2. *Current OMB approval number:* 3150–0135.

3. *How often the collection is required:* Applications for licenses are submitted once. Applications for renewals or amendments are submitted as needed. Other reports are submitted annually and as other events require.

4. *Who is required or asked to report:* Applicants for and holders of an NRC license for land disposal of low-level radioactive waste, and all generators, collectors, and processors of low-level waste intended for disposal at a low-level waste facility.

5. *The number of annual respondents:* 14.

6. *The number of hours needed annually to complete the requirement or request:* 7,538 (an average of approximately 3.5 hours per respondent for reporting and 506 hours per respondent for recordkeeping).

7. *Abstract:* 10 CFR Part 61 establishes the procedures, criteria, and license terms and conditions for the land disposal of low-level radioactive waste. Reporting and recordkeeping requirements are mandatory or, in the case of application submittals, are required to obtain a benefit. The information collected in the applications, reports and records is evaluated by the NRC to ensure that the licensee's or applicant's physical plant, equipment, organization, training, experience, procedures and plans provide an adequate level of protection of public health and safety, common defense and security, and the environment.

Submit comments that address the following by November 28, 1995:

1. Is the proposed collection of information necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the collection of information be minimized, including the use of automated collection techniques?

A copy of the draft supporting statement may be obtained free of charge from the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document within 30 days of the signature date of this notice on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem on FedWorld at 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The filename for this document will be yymmdd.omb, where yy, mm, and dd will be the year, month, and day of the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–1608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at bjs1@nrc.gov.

Dated at Rockville, Maryland, this 22nd day of September, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–24223 Filed 9–28–95; 8:45 am]

BILLING CODE 7545–01–P

Documents Containing Reporting or Recordkeeping Requirements; Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review and continued approval of information collection requirements currently approved by OMB under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection:

—DOE/NRC Forms 741 & 741A, "Nuclear Material Transaction Report," and NUREG/BR–0006, "Instructions for completing forms 741, 741A, and 740M"

—DOE/NRC Form 740M, "Concise Note"

2. Current OMB approval number: 3150–0003.

3. How often the collection is required:

—DOE/NRC Form 741/741A: As occasioned by special nuclear material or source material transfers, receipts, or inventory changes that meet certain criteria.

—DOE/NRC Form 740M: When specified in Facility Attachments or Transitional Facility Attachments, or as necessary to inform the U. S. or the International Atomic Energy Agency (IAEA) of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the US/IAEA Safeguards Agreement.

4. Who is required or asked to report: Persons licensed to possess specified quantities of special nuclear material or source material, and licensees of facilities on the U. S. eligible list who have been notified in writing by the Commission that they are subject to 10 CFR Part 75.

5. The number of annual respondents:

—DOE/NRC Form 741/741A: 20,000

—DOE/NRC Form 740M: 1,140

6. The number of hours needed annually to complete the requirement or request:

—DOE/NRC Form 741/741A: 15,000

—DOE/NRC Form 740M: 855

7. Abstract: NRC and Agreement State licensees are required to make inventory and accounting reports on DOE/NRC Form 741/741A for certain source or special nuclear material inventory changes, for transfers or receipts of special nuclear material, or for transfer or receipt of 1 kilogram or more of source material. Licensees affected by 10 CFR Part 75 and related sections of Parts 40, 50, 70, and 150 are required to submit DOE/NRC Form 740M to inform the U. S. or the IAEA of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the U.S./IAEA Safeguards Agreement. The use of Forms 740M, 741, and 741A, together with NUREG/BR–0006, the instructions for completing the forms, enables NRC to collect, retrieve, analyze as necessary, and submit the data to IAEA to fulfill its reporting responsibilities.

Submit comments that address the following by November 28, 1995.

1. Is the proposed collection of information necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the collection of information be minimized, including the use of automated collection techniques?

A copy of the draft supporting statement may be obtained free of charge from the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document within the first 30 days on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem on FedWorld at 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The electronic copy of this document will be in the NRC PDR library that can be selected from any FedWorld library. The filename for this document will be yymmdd.omb, where yy, mm, and dd will be the year, month, and day of the signature date of this notice. If assistance is needed in accessing the document, please call the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at bjs1@nrc.gov.

Dated at Rockville, Maryland, this 22nd day of September, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–24225 Filed 9–28–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–220]

Niagara Mohawk Power Corporation; Notice of Denial of Amendment To Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Niagara Mohawk Power Corporation, (licensee) for an amendment to Facility Operating License No. DPR–63 issued to the licensee for operation of Nine Mile Point Nuclear Station Unit No. 1, located in Oswego County, New York. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on October 12, 1994 (59 FR 51620).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TSs) to change pressure/temperature limits in Section 3.2.2.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated September 22, 1995.

By October 30, 1995, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated September 1, 1994, as supplemented December 5 and 20, 1994, and (2) the Commission's letter to the licensee dated September 22, 1995.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 22th day of September 1995.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Project Directorate I–1, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 95–24224 Filed 9–28–95; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE FEDERAL REGISTER

Procedures for Publication of Federal Register Documents During a Funding Hiatus

AGENCY: Office of the Federal Register.

ACTION: Notice of special procedures.

SUMMARY: Due to the possibility of a lapse in appropriations and in accordance with the provisions of the Antideficiency Act, as amended by Public Law No. 101–508, 104 Stat. 1388 (31 U.S.C. 1341), the Office of the Federal Register (OFR) announces special procedures for agencies submitting documents to be published in the **Federal Register**.

In the event of an appropriations lapse, the OFR would be required to publish documents directly related to the performance of governmental functions necessary to address imminent threats to the safety of human life or protection of property. Since it would be impracticable for the OFR to make case-by-case determinations as to whether certain documents are directly related to activities that qualify for an exemption under the Antideficiency Act, the OFR will place responsibility on agencies submitting documents to certify that their documents relate to emergency activities authorized under the Act.

During a funding hiatus affecting one or more Federal agencies, the OFR will remain open to accept and process documents authorized to be published in the daily **Federal Register** in the absence of continuing appropriations. An agency wishing to submit a document to the OFR during a funding hiatus must attach a transmittal letter to the document which states that publication in the **Federal Register** is necessary to safeguard human life, protect property, or provide other emergency services consistent with the performance of functions and services exempted under the Antideficiency Act.

Under the August 16, 1995 opinion of the Office of Legal Counsel of the Department of Justice, exempt functions and services would include activities such as those related to the constitutional duties of the President, food and drug inspection, air traffic control, responses to natural or manmade disasters, law enforcement and supervision of financial markets. Documents related to normal or routine activities of Federal agencies, even if funded under prior year appropriations, will not be published.

At the onset of a funding hiatus, the OFR may suspend the regular three-day publication schedule to permit a limited number of exempt personnel to process emergency documents. Agency officials will be informed as to the schedule for filing and publishing individual documents.

FOR FURTHER INFORMATION CONTACT: Richard Claypoole or Michael White, (202) 523–4534.

Authority

The authority for this action is 44 U.S.C. 1502 and 1 CFR 2.4 and 5.1.

Dated: September 28, 1995.

Richard L. Claypoole,

Director of the Federal Register.

[FR Doc. 95–24535 Filed 9–28–95; 11:09 am]

BILLING CODE 1505–02–M

OFFICE OF MANAGEMENT AND BUDGET

Guidelines and Instructions for Implementing Section 204, "State, Local, and Tribal Government Input," of Title II of Public Law 104–4

AGENCY: Office of Management and Budget.

ACTION: Memorandum for Heads of Departments and Agencies.

SUMMARY: On March 22, 1995, the President signed into law the "Unfunded Mandates Reform Act of 1995" (P.L. 104–4). This notice provides guidance to agencies on the Act.

FOR FURTHER INFORMATION CONTACT: Jeff Hill, 395–7340.

Attached to this notice is the material for inclusion in the **Federal Register**.

Dated: September 25, 1995.

John B. Arthur,

Assistant Director for Administration.

Memorandum for the Heads of Departments and Agencies

FROM: Alice M. Rivlin, Director.

SUBJECT: Guidelines and Instructions and Implementing Section 204, "State, Local, and Tribal Government Input," of Title II of P.L. 104–4.

On March 22, 1995, President Clinton signed into law the "Unfunded Mandates Reform Act of 1995" (P.L. 104–4) (the "Act"). Section 204(a) of the Act requires that—

"Each agency shall, to the extent permitted in law, develop an effective process to permit elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates." [1]

Section 204(b) of the Act provides an exemption from the Federal Advisory Committee Act (5 U.S.C. App.) for intergovernmental consultations involving intergovernmental responsibilities or administration.

Section 204(c) requires the President to issue guidelines and instructions to Federal agencies "for appropriate implementation" of both of these provisions "consistent with applicable laws and regulations." In accordance with the President's delegation of authority,[2] OMB is today issuing those guidelines and instructions.[3]

I. The Process for Intergovernmental Consultation

It is important that this intergovernmental consultation process not only achieves meaningful input, but also builds a better understanding among Federal, State, local, and tribal governments. As described in Part II, below, the process required by the Federal Advisory Committee Act is not to act as a hindrance to full and effective intergovernmental consultation.

A. What Agencies Are Covered?

The process for intergovernmental consultation called for by Section 204(a) applies to all Federal agencies (as

[1] The Act's consultation requirement builds on that set forth by President Clinton on October 26, 1993, in Executive Order No. 12875. In order "reduce the imposition of unfunded mandates upon State, local, and tribal governments," the Executive order requires agencies, when they seek to impose unfunded mandates upon State, local, or tribal governments through a regulation, to provide to the Director of the Office of Management and Budget "a description of the extent of the agency's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, any written communications submitted to the agency by such units of government, and the agency's position supporting the need to issue the regulation containing the mandate" (Sec. 1(a)(2)).

[2] See 60 Fed. Reg. 45039 (August 29, 1995).

[3] Portions of these guidelines and instructions are based on OMB Memorandum M–94–10, entitled "Guidance for Implementing E.O. 12875, 'Reduction of Unfunded Mandates,'" issued by Director Leon E. Panetta on January 11, 1994. These guidelines and instructions are not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees. Neither are these guidelines and instructions intended, nor should they be construed, to limit the availability of any exclusion from the Federal Advisory Committee Act contained in that Act or any applicable regulations.

defined in 5 U.S.C. 551(1)), with the exception of independent regulatory agencies.

B. When Should Intergovernmental Consultations Take Place?

Intergovernmental consultation should take place as early in the regulatory process as possible. Except where the need for immediate agency action precludes prior consultation, consultation should occur before publication of the notice of proposed rulemaking or other regulatory action proposing a significant Federal intergovernmental mandate. Consultation should continue after publication of the regulatory action initiating the proposal. Except in exceptional circumstances where the need for immediate action precludes prior consultation, consultation must occur prior to the formal promulgation in final form of the regulatory action.

C. With Whom Should Agencies Consult?

The statute directs agencies to develop an effective process to ensure that "elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf)" who wish to provide meaningful and timely input are able to do so.

Each agency needs to develop an intergovernmental consultation process for that agency. To do so, the agency should first develop a proposal for that process, and consult with State, local, and tribal governments (as appropriate) concerning this proposed process, as soon as possible.

One approach an agency may wish to adopt is to designate a person or an office through which intergovernmental consultation should be coordinated. Another approach is for an agency to instruct those responsible for developing a rule to seek out the views of elected officers of their designated employees. An agency may also wish to develop other effective means of generating meaningful input or expand those that it already has. An agency will be able to obtain the fullest range of meaningful input from State local, and tribal governments by undertaking the following kinds of consultation.

(1) Heads of Government

Agencies should seek to consult with the highest levels of the pertinent government units, e.g., the Office of the Governor, Mayor, or Tribal Leader (or their designated employees with authority to act on their behalf). These officials are the ones elected to represent the people and are the ones that the public holds directly accountable for the actions of those government units.

(2) Both Program and Financial Officials

Many regulatory agencies have functional counterparts in State, local, and tribal governments, e.g., those government officials who implement or enforce regulatory responsibilities required in whole or part by the Federal agency. These local officials tend to be those most familiar with the Federal agency's regulatory program, and should be consulted as a source of important information concerning the likely effects of, or effective alternatives to, Federal regulatory proposals.

In addition, agencies should consult with those State, local, and tribal officials most directly responsible for ensuring the funding of compliance with the Federal mandate, e.g., the applicable treasury, budget, tax-collection, or other financial officials. These officials are institutionally responsible for balancing the competing claims for scarce State, local, or tribal resources.

(3) Washington Representatives

It is also important that Federal agencies consult with Washington representatives, where available, of associations representing elected officials. These Washington representatives often know which local elected officials are the most knowledgeable about, interested in, or responsible for, implementing specific issues, regulations or programs, and can ensure that a broad range of government officials learn of and provide valuable insight concerning a proposed intergovernmental mandate.

(4) Small Governments

Agencies should make special efforts to consult with officials of small governments, and to develop a plan for such consultation under section 203 of Title II of the Act. Agencies may wish to consider several mechanisms for reaching small governments, including special task forces, periodic mailings through small government associations, or communication through rural development councils.

D. How Much Consultation Should There Be?

The scope of intergovernmental consultation should be based on common sense and be commensurate with the significance of the action being taken. The more costly, the more potentially disruptive, the more broadly applicable, the more controversial the proposed Federal intergovernmental mandate—the more consultation there should be. An agency should decide the extent of its consultation on a case-by-case basis; a one-size-fits-all prescription is neither appropriate nor desirable.

E. What Should Be the Content of Consultation?

Agencies should seek views of State, local, and tribal governments regarding costs, benefits, risks, and alternative and flexible methods of compliance regarding their regulatory proposals. Agencies should also seek views on potential duplication with existing laws or regulations at other levels of government, and on ways to harmonize their rules with State, local and tribal policies and programs.

To assist with these consultations, agencies should first estimate the direct costs to be incurred by the State, local, or tribal governments in complying with the mandate and then inform the affected governmental units of these cost estimates. Estimates should cover both up-front and recurring costs, for a reasonable number of years after the rule is to be put into effect. To the extent practicable, agencies should make reasonable efforts to disaggregate these cost estimates as they affect the various levels of government, or otherwise provide the criteria by which those affected can disaggregate the cost estimates in order to determine the potential costs to themselves. Where quantitative estimates are not feasible, agencies should work with other levels of government to discern and discuss qualitative costs.

Agencies should also consult on and estimate the benefits expected from the mandate for States, localities, tribes, and their residents and businesses. Estimates should cover both up-front and recurring benefits for a reasonable number of years after the rule is to be put into effect. To the extent practicable, agencies should make reasonable efforts to disaggregate these benefit estimates as they affect the various levels of government, or otherwise provide the criteria by which those affected can disaggregate the benefit estimates in order to determine the potential benefits to themselves. Where quantitative estimates are not feasible, agencies should work with other levels of government to discern and discuss qualitative benefits.

Agencies should also, during the consultative process, seek views on the expected method of compliance. Governmental units may have suggestions as to how to achieve the Federal regulatory objective in a way that is more effective, efficient flexible,

and consistent with State, local, and tribal governmental regulatory and other functions.

F. How Should Agencies Integrate These Intergovernmental Consultations into the Rulemaking Process?

It is important for agencies to integrate these consultation activities into the ongoing rulemaking process. The cost and benefit estimates, any additional viable suggestions received during the pre-notice consultations, and the agency plan to carry out intergovernmental consultation should be included in the preamble to the notice of proposed rulemaking. Publication of consultation plan in the **Federal Register** will assure that those governmental units that are not contacted directly will have access to the same cost and benefit estimates as those who were contacted directly, and have the opportunity to make their concerns known. Similarly, and consistent with E.O. 12875, any preamble transmitted to the **Federal Register** on or after October 2, 1995, should include, as of the particular stage of the ruleamking, the extent of the agency's prior consultations with representatives of affected State, local, and tribal governments, the nature of their concerns, any written communications submitted to the agency by such units of government, and the agency's position supporting the need to issue the regulation containing the mandate.

G. What Compliance Reports Should Agencies Submit to OMB?

Under Section 208 of the Act, OMB is required to submit a report to Congress on agency compliance with the requirements of Title II of the Act, which includes the intergovernmental consultation requirement, on or before March 22, 1996, and annually thereafter. Accordingly, agencies should provide the Administrator of the Office of Information and Regulatory Affairs, by January 15, 1996, and annually on that date thereafter, a written report of each agency's compliance with Title II of the Act. The report should include a description of the process established by the agency to ensure meaningful input, as well as a description of agency consultations with State, local, and tribal governments for each proposed and final rule "containing significant Federal intergovernmental mandates." As part of the report to be submitted by January 15, 1996, agencies should also describe the plans they have developed to consult with small governments, under Section 203 of Title II of the Act.

II. The Exemption From the Federal Advisory Committee Act

In order to facilitate the consultation process, section 204(b) of the Act provides an exemption from the Federal Advisory Committee Act ("FACA") (5 U.S.C. App.) "for the exchange of official views regarding the implementation of public laws requiring shared intergovernmental responsibilities or administration."[4] This exemption applies to all Federal agencies subject to FACA, and is not limited to the intergovernmental consultations required by Section 204(a) but instead applies to the entire range of intergovernmental responsibilities or administration. In accordance with the legislative intent, the exemption should be read broadly to facilitate intergovernmental communications on responsibilities or administration.

This exemption applies to meetings between Federal officials and employees and State, local, or tribal governments, acting through their elected officers, officials, employees, and Washington representatives, at which "views, information, or advice" are exchanged concerning the implementation of intergovernmental responsibilities or administration, including those that arise explicitly or implicitly under statute, regulation, or Executive order.[5]

The scope of meetings covered by the exemption should be construed broadly to include any meetings called for any purpose relating to intergovernmental responsibilities or administration. Such meetings include, but are not limited to, meetings called for the purpose of seeking consensus; exchanging views, information, advice, and/or recommendations; or facilitating any other interaction relating to intergovernmental responsibilities or administration.

The guidance given above should help determine when a meeting qualifies under Section 204(b) of the Act for an exemption from the FACA. We also note that meetings that do not meet these guidelines for an exemption may nonetheless not be subject to the FACA in the first instance. Accordingly, to determine whether there is even a need for an exemption from the FACA, agencies should also consult the FACA itself, as well as the General Service Administration's regulations at 41 CFR Subpart 101–6.10, and the court decisions construing the FACA.

* * * * *

It is important that agencies make their best efforts to implement these guidelines and instructions. As the Conference Report stated, "an important part of efforts to improve the Federal regulatory process entails improved communications with State, local, and tribal governments. Accordingly, this legislation will require Federal agencies to establish effective mechanisms for soliciting and integrating the input of such interests into the Federal decision-making process."[6]

If agencies have any questions concerning these guidelines and instructions, they should contact the Administrator of the Office of Information and Regulatory Affairs, or her staff. OMB will provide additional guidance as experience and need dictate.

[4] House Conference Report 104–76 (March 13, 1995), p. 40.

[5] Specifically, this exemption from FACA applies where—

"(1) meetings are held exclusively between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf), acting in their official capacities; and

"(2) such meetings are solely for the purposes of exchanging information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration."

[6] House Conference Report 104–76 (March 13, 1995), p. 40.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36272; File No. SR–OCC–95–01]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Withdrawal of a Proposed Rule Change

September 22, 1995.

On January 23, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] a proposed rule change clarifying OCC's Rules regarding the unavailability of current index values. Notice of the proposed rule was published in the **Federal Register** on March 17, 1995.[2] On September 19, 1995, OCC filed a request that the proposed rule change be withdrawn.[3]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 35472 (March 10, 1995), 60 FR 14475 [File No. SR–OCC–95–01].

[3] Letter from James C. Yong, First Vice President and General Counsel, OCC, to Jerry Carpenter, Assistant Director, Division of Market Regulation, Commission, (September 15, 1995).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–24261 Filed 9–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26378]

Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

September 22, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 16, 1995, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

General Public Utilities Corporation (70–7670)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed a post-effective amendment to its application-declaration under sections 6(a) and 7 of the Act and rules 53 and 54 thereunder.

By order of the Commission dated October 23, 1989 (HCAR No. 24971) ("1989 Order"), GPU was authorized to issue and sell, from time to time through December 31, 1995, pursuant to a Dividend Reinvestment and Stock Purchase Plan ("Plan"), up to 2.5 million shares of its common stock, $2.50 par value ("Common Stock"). Common Stock is purchased under the Plan either on the open market or directly from GPU from authorized but unissued shares or previously reacquired shares, as GPU may direct, by the administrator of the Plan.

GPU now proposes to extend to December 31, 2000 the time it may issue and sell authorized but unissued and reacquired shares of Common Stock under the Plan.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret M. McFarland,

Deputy Secretary.

[FR Doc. 95–24184 Filed 9–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21371; 812–9266]

T. Rowe Price Spectrum Fund, Inc., et al.; Notice of Application

September 22, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: T. Rowe Price Growth Stock Fund, Inc., T. Rowe Price New Horizons Fund, Inc., T. Rowe Price New Era Fund, Inc., T. Rowe Price New Income Fund, Inc., T. Rowe Price Prime Reserve Fund, Inc., T. Rowe Price Growth & Income Fund, Inc., T. Rowe Price Short-Term Bond Fund, Inc., T. Rowe Price High Yield Fund, Inc., T. Rowe Price Equity Income Fund, T. Rowe Price GNMA Fund, T. Rowe Price International Funds, Inc., and each open-end management investment company (1) that in the future becomes advised by T. Rowe Price Associates, Inc. ("T. Rowe Price") and/or Row Price-Fleming International, Inc. ("Price-Fleming") and distributed by T. Rowe Price Investment Services, Inc. ("Investment Services"), and (2) that holds itself out to investors as a related fund for purposes of investment and investor services (collectively, the "Price Funds"); T. Rowe Price Spectrum Fund, Inc. (the "Spectrum Fund"); T. Rowe Price Associates, Inc. ("T. Rowe Price"); Rowe Price-Fleming International, Inc. ("Price-Fleming"); T. Rowe Price Investment Services, Inc. ("Investment Services"); and T. Rowe Price Services, Inc. ("Price Services").

RELEVANT ACT SECTIONS: Order requested under section 6(c) to exempt the applicants from sections 12(d)(1)(A) and (B), sections 6(c) and 17(b) to exempt applicants from section 17(a), and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: The requested order would supersede two prior orders that permit the T. Rowe Price Spectrum Fund, Inc. ("the "Spectrum Fund") to operate as a "fund of funds." The existing relief imposes a number of restrictions that limit the manner in which the Spectrum Fund may operate. The requested order would permit the Spectrum Fund to continue operating as a fund of funds while eliminating many of the restrictions from the prior order.

FILING DATES: The application was filed on September 29, 1994, and amended on April 28, 1995, August 16, 1995, and August 23, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 17, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, D.C. 20549. Applicants, 100 East Pratt Street, Baltimore, MD 21202.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representation

1. The Spectrum Fund is a registered, no-load, open-end, management investment company organized as a Maryland corporation. The Spectrum Fund began offering its shares to the public in 1990 and consists of two series: the Growth Fund and the Income Fund (the "Portfolios"), with assets as of June 30, 1995 of approximately $1.1

[4] 17 CFR 200.30–3(a)(12) (1994).

billion and $842 million, respectively. Each Portfolio invests substantially all of its assets in certain Price Funds (the "Underlying Funds"). Investments also may be made in money market instruments for temporary purposes. The Underlying Funds are no-load, open-end investment companies which have not adopted plans under rule 12b–1 to finance their distribution. Applicants request that the relief sought herein also apply to any future "fund of funds," whether organized as an investment company or as a portfolio thereof, which operates in all material respects in accordance with the conditions to the requested order, and that is a number of the T. Rowe Price group of investment companies.

2. Price Associates serves as investment adviser to each of the Underlying Funds, except for T. Rowe Price International Funds, Inc. which is advised by Price-Fleming. Investment Services, a wholly-owned subsidiary of Price Associates, serves as distributor of the Spectrum Fund and the Underlying Funds. Price Services, a wholly-owned subsidiary of Price Associates, performs certain shareholder services for the Spectrum Fund and the Underlying Funds.

3. The Spectrum Fund operates as a "fund of funds" under an exemptive order granted by the Commission (the "Existing Order").[1] The Existing Order exempts applicants under section 6(c) from the limitations of section 12(d)(1)(A) and (B) to the extent necessary to permit: (i) The Spectrum Fund to purchase, in the aggregate, up to 15% of the outstanding voting shares of each underlying Fund, (ii) the securities of each Underlying Fund to have an aggregate value in excess of 5% of the value of the total assets of the Spectrum Fund, (iii) the Spectrum Fund to invest essentially all of its assets in the securities of the Underlying Funds, and (iv) each of the Underlying Funds to sell more then 3% of its total outstanding voting stock to the Spectrum Fund. The Existing Order also exempts applicants under sections 6(c) and 17(b) from section 17(a)(1) to permit sales by the Underlying Funds of their shares to the Spectrum Fund. Finally, the Existing Order permits, under section 17(d) and rule 17d–1, joint arrangements under a special servicing agreement that includes payments by the Underlying Funds of Spectrum Fund expenses.

[1] Investment Company Act Release Nos. 17198 (Oct. 31, 1989) (notice) and 17242 (Nov. 29, 1989) (order).

4. The Existing Order was amended in 1992 (the "Amended Order")[2] to modify a condition of the Existing Order that had limited investments in the Spectrum Fund to individuals investing an aggregate of $30,000 per calendar year. The Amended Order removed this restriction.

5. The Existing Order imposed a number of conditions that restrict the manner in which the Spectrum Fund may operate. These conditions require applicants to sell shares of the Spectrum Fund only to certain "long-term investors," require the Spectrum Fund to allocate its assets to specified Underlying Funds only in predetermined and set ranges, prohibit the Spectrum Fund from acquiring more than 15% of the outstanding securities of any Underlying Fund, limit redemptions made by the Spectrum Fund from the Underlying Funds to 1% in any 30-day period (unless the redemptions are made to satisfy redemption requests by the Spectrum Fund's shareholders), limit shareholder exchanges into or out of the Spectrum Fund, the prevent the Spectrum Fund from creating new portfolios without further exemptive relief from the Commission (the "Redemption Conditions"). In addition, the Existing Order prohibits any of the Spectrum Fund's non-interested directors from serving on the board of directors of any Underlying Fund, requires the Spectrum Fund to vote its shares in each Underlying Fund in proportion to the vote of all shareholders of the Underlying Fund, prohibits the Spectrum Fund and/or the Underlying Funds from imposing certain distribution and advisory fees, and requires the Spectrum Fund's board of directors to monitor for "wash transactions"[3] among the Underlying Funds (the "Order Conditions," collectively with the Redemption Conditions, the "Existing Conditions"). The requested order would supersede the Existing and Amended Orders, and would eliminate the Existing Conditions and replace them with the conditions set forth below.

Applicant's Legal Analysis

A. Section 12(d)(1)

1. Absent the Existing Order, section 12(d)(1)(A) of the Act would prohibit the Spectrum Fund from purchasing more than 3% of the outstanding voting securities of an Underlying Fund, securities issued by all Underlying Funds having an aggregate value in excess of 5% of the value of the total assets of the Spectrum Fund, or securities issued by the Underlying Funds and all other investment companies having an aggregate value in excess of 10% of the value of the total assets of the Spectrum Fund. Section 12(d)(1)(B) would prohibit the Underlying Funds from selling more than 3% of their outstanding voting securities to the Spectrum Fund and more than 10% to the Spectrum Fund and other investment companies.

2. Section 12(d)(1) is intended to prevent the pyramiding of investment companies, the layering of fees, and undue organizational complexities. Applicants state that none of these abuses associated with fund holding companies are present with respect to the current and proposed arrangement, and that the Spectrum Fund will provide the benefits of diversification and cost savings to its investors.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of that company. Absent the Existing Order, the sale by the Underlying Funds of their shares to the Spectrum Fund could be deemed to be a principal transaction between affiliated persons that are prohibited under section 17(a). Because the Spectrum Fund and the Underlying Funds are each advised by Price Associates, they could be deemed to be affiliates of one another. Therefore, applicants requested the Existing Order to permit the Underlying Funds to sell their shares to the Spectrum Fund.

C. Section 17(d) and Rule 17d–1

1. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Applicants requested the Existing Order under section 17(d) and rule 17d–1 to permit the Spectrum Fund to enter into a joint arrangement pursuant to a special servicing agreement, as more fully described in the application.

D. Standard for Relief

1. Applicants state that the Redemption Conditions to the Existing Order were designed to prevent disruptive redemptions from the

[2] Investment Company Act Release Nos. 18816 (June 29, 1992) (notice) and 18865 (July 24, 1992) (order).

[3] A "wash transaction" is a purchase of a security by one underlying fund that is offset by a contemporaneous sale of the same security by another underlying fund.

Underlying Funds. Applicants believe these conditions are no longer necessary and act as an impediment to the prudent management of the Spectrum Fund. Specifically, applicants believe that the Redemption Conditions are unnecessary for the following reasons: The Spectrum Fund has attracted shareholders investing for retirement, has had a consistently lower redemption rate than the Underlying Funds, has shareholders who on the whole remain in the fund longer than shareholders remain in the Underlying Funds, and has benefited the Underlying Funds in by increasing assets and reducing redemption pressure. In addition, the Underlying Funds have maintained sufficient cash positions to satisfy all redemptions made by the Spectrum Fund, and applicants believe that the structure of the Spectrum Fund dilutes Spectrum Fund shareholder redemptions by spreading their effect over the Underlying Funds.

2. Applicants also believe the Other Conditions are no longer necessary. Applicants submit that the identity of management between Spectrum Fund and the Underlying Funds provides assurance to investors that they will not be treated unreasonably or unfairly. Applicants further note that any harm to the Underlying Funds would be contrary to price Associates' business interests.

3. Applicants state that the fact that the boards of directors for the Spectrum Fund and the Underlying Funds may have common independent directors does not impede the ability of the independent directors to perform their oversight function because they have fiduciary obligations to all funds on whose board of directors they serve. Further, any conflict among the interests of those funds is no different from that which, in theory, can arise in any situation where an individual serves on the boards of directors of multiple funds in the same fund family.

4. Section 6(c) permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy of the Act. For the above reasons, applicants argue that the replacement of the Existing Conditions with the modified conditions meets the section 6(c) standards.

5. Section 17(b) permits the SEC to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that the participation of such investment company is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants believe that the terms of the transactions meet these standards.

6. Rule 17d–1 permits the SEC to approve a proposed joint transaction. In determining whether to approve a transaction, the SEC is to consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants. Applicants believe that the requested order meets these standards.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. The Spectrum Fund and each Underlying Fund will be part of the same "group of investment companies," as defined in rule 11a–3 under the Act.

2. No Underlying Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the directors of the Spectrum Fund will not be "interested persons," as defined in section 2(a)(19) of the Act.

4. Before approving any advisory contract under section 15, the board of directors of the Spectrum Fund, including a majority of the directors who are not "interested persons," as defined in section 2(a)(19), shall find that advisory fees charged under such contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Fund's advisory contract. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Spectrum Fund.

5. Any sales charges and other service fees charged with respect to securities of spectrum Fund, when aggregated with any sales charges and service fees paid by spectrum Fund with respect to securities of the Underlying Funds, shall not exceed the limits set forth in Article III, section 26, of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: monthly average total assets for each Spectrum Fund portfolio and each of its Underlying Funds; monthly purchases and redemptions (other than by exchange) for each Spectrum Fund portfolio and each of its Underlying Funds; monthly exchanges into and out of each Spectrum Fund portfolio and each of its Underlying Funds; month-end allocations of each Spectrum Fund portfolio's assets among its Underlying Funds; annual expense ratios for each Spectrum Fund portfolio and each of its Underlying Funds; and a description of any vote taken by the shareholders of any Underlying Fund, including a statement of the percentage of votes cast for and against the proposal by the Spectrum Fund and by the other shareholders of the Underlying Funds. Such information will be provided as soon as reasonably practicable following each fiscal year-end of the Spectrum Fund (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–24185 Filed 9–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21372; 812–9540]

Vanguard STAR Fund, et al.; Notice of Application

September 22, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Vanguard STAR Fund ("STAR"); The Vanguard Group, Inc. ("TVGI"); and Vanguard Balanced Index Fund, Inc., Vanguard Index Trust, Vanguard International Equity Index Fund, Inc., Vanguard Bond Index Fund, Inc., Vanguard Institutional Portfolios, Inc., Vanguard California Tax-Free Fund, Vanguard New York Insured Tax-Free Fund, Vanguard Pennsylvania Tax-Free Fund, Vanguard Fixed Income Securities Fund, Inc., Vanguard Preferred Stock Fund, Vanguard Asset Allocation Fund, Inc., Vanguard/Trustees' Equity Fund, Vanguard/Windsor Funds, Inc., Vanguard Tax-Managed Fund, Inc., Vanguard Florida Insured Tax-Free Fund, Inc., Vanguard/Primecap Fund, Inc., Vanguard/Morgan Growth Fund, Inc., Vanguard Variable Insurance Fund, Vanguard Money Market Reserves, Inc., Vanguard Municipal Bond Fund, Inc., Vanguard New Jersey Tax-Free Fund, Vanguard

Ohio Tax-Free Fund, Vanguard/Wellesley Income Fund, Inc., Vanguard Convertible Securities Fund, Inc., Vanguard/Wellington Fund, Inc., Vanguard Equity Income Fund, Inc., Vanguard Quantitative Portfolios, Inc., Gemini II, Inc., Vanguard World Fund, Inc., Vanguard Explorer Fund, Inc., Vanguard Specialized Portfolios, Inc., Vanguard Admiral Funds, Inc., and any future registered management investment company, or portfolio thereof, in which STAR invests that (a) is part of a group of investment companies which holds itself out to investors as related companies for purposes of investment and investor services, and (b) obtains corporate management, administrative, and distribution services from TVGI (together, the "Funds").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act from section 12(d)(1) of the Act, under sections 6(c) and 17(b) of the act from section 17(a) of the Act, and pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order that would supersede a prior order. The prior order permits STAR to operate as a "fund of funds," subject to the limitation that STAR may not acquire more than 10% of the outstanding voting shares of any acquired fund. The requested order would permit STAR to acquire up to 100% of the voting shares of any acquired fund. The requested order would also permit the boards of trustees/directors of the funds constituting the Vanguard Group of Investment Companies, as defined below, to modify the Funds' service agreement to provide that STAR may become a member of The Vanguard Group of Investment Companies without bearing duplicative capital contribution or expense allocation costs.

FILING DATES: The application was filed on March 17, 1995, and was amended on August 17, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 17, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o The Vanguard Group, Inc., P.O. Box 2600, Valley Forge, Pennsylvania 19482.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are thirty-two registered management investment companies that currently offer shares in 86 portfolios (the "Portfolios"). The Funds organized and operate TVGI, pursuant to the terms of a Second Amended and Restated Funds' Service Agreement dated May 15, 1993 (the "Funds' Service Agreement") in order to provide the Funds with services on an "internalized," at-cost, no-load basis.[1] Each Fund is organized as a business trust under Pennsylvania law, or as a Maryland corporation. Each Fund has a board of directors/trustees (the "Board of Directors") that consists of the same ten persons, eight of whom are not "interested persons" under section 2(a)(19) of the Act. Nine of the directors compose the board of directors of TVGI. The Funds that are party to the Funds' Service Agreement constitute The Vanguard Group of Investment Companies ("The Vanguard Group").

2. TVGI, a registered investment adviser under the Investment Advisers Act of 1940, is a wholly and jointly owned and capitalized subsidiary of the Funds. TVGI provides to the Funds on an at-cost basis almost all of their necessary corporate management, administrative, and shareholder accounting services, distribution services, and, for certain Portfolios, advisory services. TVGI also provides specified services to STAR and the Vanguard Institutional Index Fund, funds that do not contribute to the capitol of TVGI.

3. STAR is a no-load, open-end, registered management investment company which operates as a "fund of funds," investing in shares of certain specified Vanguard Portfolios rather than investing directly in portfolio securities. STAR operates under the terms of a prior order (the "STAR Order").[2] STAR commenced operations on March 29, 1985 and began offering shares of one portfolio, now the "STAR Portfolio." Since July 17, 1994, STAR has offered shares of four additional portfolios (the Income Portfolio, the Conservative Growth Portfolio, the Moderate Growth Portfolio, and the Growth Portfolio) designated the "LIFEStrategy Portfolios" (each portfolio of STAR is hereinafter referred to as a "STAR Fund Portfolio"). Applicants request that the relief sought herein apply to any future "fund of funds," whether organized as an investment company or as a portfolio thereof, which operates in all material respects in accordance with the representations contained in the application, complies with the conditions to the requested order, and is a Vanguard Fund or is operated by TVGI (a "Vanguard Fund of Funds").

4. In the STAR Order, the Commission granted STAR an exemption under section 6(c) from section 12(d)(1), and pursuant to section 17(d) and rule 17d–1, to permit STAR to operate as a "fund of funds," subject to the condition, among others, that STAR may not acquire more than 10% of the outstanding voting shares of any acquired Fund.[3] Applicants request that this limitation be eliminated, so that STAR may acquire up to 100% of the voting shares of any Fund.

5. Initially, the STAR Portfolio invested its assets in shares of four specified Vanguard Portfolios (two equity funds, one fixed income fund, and one money market fund). Currently, the STAR Portfolio invests 60–70% of its net assets in six Portfolios that invest primarily in equity securities, and 30–

[1] The Funds operate TVGI pursuant to a number of prior exemptive orders. The Vanguard Group, Inc., Investment Company Act Release Nos. 19011 (Oct. 9, 1992) (notice) and 19184 (Dec. 29, 1992) (order); Wellington Fund, Inc., Investment Company Act Release Nos. 15788 (June 9, 1987) (notice) and 15846 (July 2, 1987) (order); Wellington Fund, Inc., Investment Company Act Release Nos. 13566 (Oct. 5, 1983) (notice) and 13613 (Nov. 3, 1983) (order); The Vanguard Group, Inc., Investment Company Act Release Nos. 11718 (Apr. 6, 1981) (notice) and 11761 (May 4, 1981) (order); The Vanguard Group, Inc., Investment Company Act Release Nos. 9850 (July 15, 1977) (notice), and 9927 (Sept. 13, 1977) (temporary order) and 11645 (Feb. 25, 1981) (order); Wellington Fund, Inc., Investment Company Act Release Nos. 8644 (Jan. 17, 1975) and 8676 (Feb. 18, 1975) (order).

[2] Vanguard Special Tax-Advantaged Retirement Fund, Inc., Investment Company Act Release Nos. 14153 (Sept. 12, 1984) (notice) and 14361 (Feb. 7, 1985) (order).

[3] STAR was also subject to conditions requiring that it vote its shares in any acquired Fund in proportion to the vote of all the other shareholders in that Fund, and that it allocate its assets to any acquired fund within a 25% range.

40% of its net assets in three Portfolios (including a money market portfolio) that invest primarily in fixed income securities. Since its inception, the STAR Portfolio has maintained fixed allocation targets for its investments in equity, fixed income, and money market Portfolios.

6. The LIFEStrategy Portfoilos' different asset allocations provide investors with four distinct options that meet a wide array of investor needs. Currently, each LIFEStrategy Portfolio invests its assets in a "fixed mix" of shares of Vanguard Portfolios to provide its investors with a targeted asset allocation. Each LIFEStrategy Portfolio currently invests 30% of its net assets in the Vanguard Asset Allocation Fund (the "Asset Allocatien Fund") which allocates its assets among an equity portfolio, a band portfolio, and money market instruments.

7. As of December 31, 1994, the Asset Allocation Fund had assets of $1.1 billion and the LIFEStrategy Portfolios had invested $37.6 million in the Asset Allocation Fund. Because of the 10% limitation imposed by the STAR Order upon investments by STAR in any Vanguard Fund, at December 31, 1994 the maximum amount which STAR could invest in the Asset Allocation Fund was $110 million. As a result of the 10% limitation, when the LIFEStrategy Portfolios reach assets of approximately $400 million (at March 1, 1995 assets were $215 million), applicants state that the only solutions will be for the LIFEStrategy Portfolios to begin investing directly in securities at an additional cost estimated to be $100,000 per LIFEStrategy Portfolio,[4] or to cease offering shares because Vanguard has no comparable and suitable alternative Portfolio in which the LIFEStrategy Portfolios may invest.

8. STAR has entered into a special servicing agreement (the "STAR Servicing Agreement") with TVGI, under which TVGI provides all management, administrative, and distribution services to STAR and acts as STAR's dividend disbursing, shareholder servicing, and transfer agent. To avoid imposing a duplicate capital contribution on STAR's shareholders, STAR is not a party to the general Funds' Service Agreement and, therefore, is not a member of The Vanguard Group.

[4]The additional cost would be cause because each LIFEStrategy Portfolio would own shares of a number of issuers rather than shares of a single fund, and would incur additional custody fees; investment portfolio, tax accounting, and administrative expenses; audit fees; and printing and postage costs.

9. Under the STAR Servicing Agreement, the STAR Fund Portfolios are obligated to pay for services rendered by outside parties, including auditors, STAR's custodian, and outside legal counsel. The STAR Servicing Agreement provides, however, that each STAR Fund Portfolio's expenses will be offset, in whole or in part, by a "credit" from TVGI for: (a) That STAR Fund Portfolio's contributions to the cost of operating the underlying Vanguard Portfolios in which it invests, and (b) certain savings in transfer agency, administrative, and marketing costs that TVGI derives from the operation of the STAR Fund Portfolios. These reimbursements by TVGI have been, and should continue to be, sufficient to offset all of the STAR Fund Portfolios' expenses.

10. Under current provisions of the Funds' Service Agreement, STAR cannot become a member of the Vanguard Group without making a capital investment in TVGI, and being allocated a portion of TVGI's corporate management and distribution expenses, even though STAR shareholders already bear a portion of these expenses through the fees they pay with respect to the Portfolios. The Boards of Directors of the Funds propose to amend the Funds' Service Agreement to permit a Vanguard Fund of Funds, such as STAR, whether structured as a separate investment company or as a portfolio of a Vanguard Fund, to become a member of The Vanguard Group. Applicants believe that, although the STAR Service Agreement has worked well in practice, the same result can be achieved by amending the Funds' Service Agreement to permit a Vanguard Fund of Funds to become a member of The Vanguard Group without a requirement that such fund of funds bear the TVGI capital contribution and expense allocation assessments borne by the other Vanguard Funds.

11. The amendment to the Funds' Service Agreement would provide, in substance, that: (a) The obligation of a Vanguard Fund of Funds to make capital contributions to TVGI would be reduced or eliminated to the extent that its assets consist of shares of Vanguard Portfolios that are already contributing to the capital of TVGI; (b) a Vanguard Fund of Funds would not be allocated any portion of the corporate management and administrative expenses, or the distribution expenses, that are allocated under the Funds' Service Agreement; and (c) a Vanguard Fund of Funds would be obligated to pay for services rendered by outside parties and certain other direct Vanguard Fund of Funds expenses customarily borne by each Fund pursuant to the Funds' Service Agreement, subject to the partial or complete elimination of these charges by the savings which would accrue to the benefit of the Vanguard Portfolios.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 6(c) provides that the SEC may exempt persons or transactions if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order under section 6(c) exempting them from section 12(d)(1) to permit STAR, and any future Vanguard Fund of Funds, to invest in the Vanguard Portfolios in excess of the percentage limitations of section 12(d)(1). The STAR Order permitted STAR to acquire up to 10% of any acquired Vanguard Fund's outstanding voting stock. The requested order would eliminate this 10% limitation.

3. STAR was created to provide investors with an investment service through which they could diversify and maintain investment holdings balanced among asset types or classes of assets selected to meet long-term retirement and savings objectives. Currently, more than 287,000 investors have entrusted more than $3.7 billion to STAR. Absent an investment service such as STAR, an "asset allocation" approach to investing requires that an investor establish accounts in two or more portfolios, and, at least periodically, take the steps to "rebalance" his or her account so that the ratio selected is maintained. If Vanguard were not able to offer STAR as an investment alternative, it would

have to create and operate a variety of asset allocation funds at substantial additional expense, notwithstanding the fact that suitable Portfolios otherwise exist.

4. Section 12(d)(1) was intended to mitigate or eliminate actual or potential abuses which might arise when one investment company acquires shares of another investment company. These abuses include the acquiring fund imposing undue influence over the management of the acquired funds through the threat of large-scale redemptions, the acquisition by the acquiring company of voting control of the acquired company, the layering of sales charges, advisory fees, and administrative costs, and the creation of a complex pyramidal structure which may be confusing to investors.

5. Applicants believe that none of these potential or actual abuses are present in the structure of STAR. STAR does not exercise any influence over the management of the acquired Portfolios by the threat of redemptions. STAR does not hold out to investors that STAR is seeking to exercise investment judgment to time the market or to pick the "better" or "best" performing funds. Instead, STAR enables Vanguard to offer an asset allocation service to investors on a cost-effective basis. STAR currently, as a matter of fundamental policy, invests its assets solely in specified Portfolios within defined ranges.[5] Redemptions from the acquired Portfolios will result solely in the ordinary course of business as a result of STAR's receipt of net redemption requests from its shareholders. The acquired Portfolios, as a matter of policy and practice, are at all times at least 85% invested in liquid, publicly traded securities. Thus, they would have no reason to hold a higher than normal cash position to protect their other shareholders against potential redemptions by STAR. As well, the actual results of ten years of the STAR Portfolio's investments in the acquired Portfolios demonstrates that STAR's investments tend to reduce the redemption rates of the acquired Portfolios.[6]

6. The structure of STAR contains no layering of sales charges, advisory fees, or administrative costs. Neither STAR nor the Portfolios imposes any sales charges or fees pursuant to rule 12b–1. Although STAR may pay advisory fees at the level of the Vanguard Portfolios, it does not intend to pay an advisory fee at the STAR level for advisory services related to investments in any Vanguard Portfolios. Similarly, virtually all administrative fees are imposed at the Portfolio level, and shareholders of STAR will bear a portion of the fees only in proportion to their holdings of the Portfolios.

7. STAR does not have a complex structure that would make it difficult for a shareholder to determine the true value of his or her interest in the Portfolios. Indeed, the 10% limitation contained in the STAR Order operates to increase the complexity of the STAR Portfolio by requiring it to acquire shares of additional Portfolios which would not otherwise acquire, and of the LIFEStrategy Portfolios if they must invest directly in securities once they have reached the 10% limit with respect to the Vanguard Asset Allocation Fund.

8. In addition to not containing the actual and potential abuses which led to the enactment of section 12(d)(1), applicants believe that the structure of STAR provides a number of benefits to STAR and its shareholders, including: (a) An increase in the variety of investment options available to shareholders; (b) a simpler method for an investor to allocate his or her assets on a continuous basis without, at a minimum, the inconvenience of initiating the steps periodically to "rebalance" his or her portfolio; (c) a modest reduction in the investor's account maintenance costs, because an investor will not need to maintain two or more accounts to attain a desired allocation; and (d) the lower expense ratios and increased diversification which result from a new STAR Fund Portfolio's ability to take advantage of the existing asset base created by the acquired Funds.

9. The acquired Vanguard Portfolios benefit from the existence of STAR in four major respects: (a) The likely addition of assets from STAR will further reduce the expense ratios of the Portfolios; (b) to the extent many shareholders of STAR would otherwise open accounts with each of the Portfolios, the number of accounts maintained by the Portfolios in the aggregate, and the resulting transfer agency fees, will be reduced; (c) the costs of printing and mailing prospectuses, sales material, and periodic reports will be reduced because The Vanguard Group can combine information concerning two or more funds in a single document; and (d) the Portfolios' redemption rates are likely to be lower due to the long-term nature of STAR's assets. As well, all of the Vanguard Funds are likely to benefit from the existence of STAR since increased distribution and the resulting addition of assets to The Vanguard Group produces cost savings and other benefits for all Funds even if they are not the acquired Funds.

B. Section 17(a)

1. Section 17(a) makes it unlawful for an affiliated person of a registered investment company to sell securities to, or purchase securities from, the company. STAR and the acquired Vanguard Funds may be considered affiliated persons because they share common officers and/or directors/trustees. An acquired Fund's issuance of its shares to STAR may be considered a sale prohibited by section 17(a).

2. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to permit the Portfolios to sell their shares to STAR.

3. Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b). All purchases and redemptions of shares of a Vanguard Portfolio will be effected at current net asset value. STAR's purchase and sale of shares of the Vanguard Portfolios is consistent with STAR's policy, as set forth in its registration statement. Applicants also believe that the proposed transactions are consistent with the general purposes of the Act.

C. Section 17(d) and Rule 17d–1

1. Section 17(d) prohibits an affiliated person of the registered investment company, or an affiliated person of such person, acting as principal, from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person in contravention of SEC rules and regulations. Rule 17d–1 provides that an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, shall not participate in, or effect any transaction in connection

[5] If the requested order is granted, STAR may seek shareholder approval to eliminate this limitation as a matter of fundamental policy. STAR would continue to disclose in its prospectus and other documents the Vanguard Funds in which it intends to invest.

[6] For each of the 10 years in which the STAR Portfolio has operated, the STAR Portfolio's redemption rates, with one exception, have been somewhat or substantially below the redemption rates of the Portfolios. In 1994, for example, the STAR Portfolio experienced a redemption rate of 7%, while the average redemption rate for the acquired Vanguard Portfolios was 19.7%.

with, any joint enterprise or other joint arrangement in which the registered investment company is a participant unless the SEC has issued an order approving the arrangement. The Vanguard Funds and TVGI are engaged in a joint enterprise within the meaning of section 17(d).

2. Applicants request an exemption under section 17(d) and rule 17d–1 to permit the Boards of Directors of the Vanguard Funds to modify the Funds' Service Agreement. Applicants believe that, for the reasons discussed above, the proposed amendments to the Funds' Service Agreement are consistent with the standards of rule 17d–1. Requiring STAR to make an asset-related capital contribution to TVGI, when the assets of STAR will already be bearing a capital assessment indirectly at the Portfolio level, would unfairly impose duplicative expenses upon the shareholders of STAR, and confer an unjustified benefit on the acquired Portfolios, as well as the other Vanguard Funds, which will be deriving other benefits from STAR's participation in TVGI.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. STAR and each acquired Vanguard Fund will be part of a group of investment companies which holds itself out to investors as related companies for purposes of investment and investor services, and which obtains corporate management, administrative, and distribution services from TVGI.

2. No acquired Vanguard fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the directors of STAR will not be "interested persons," as defined in a section 2(a)(19) of the Act.

4. Before approving any advisory contract under section 15 of the Act, the Board of Directors of STAR, including a majority of the directors who are not "interested persons," as defined in section 2(a)(19), shall find that advisory fees charged under such contract are based on services provided that are in addition to, rather than duplicative of, services provide pursuant to any acquired vanguard fund's advisory contract. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of STAR.

5. Any sales charges or service fees charged with respect to securities of STAR, when aggregated with any sales charges or service fees paid by STAR with respect to shares of the acquired Vanguard Funds, shall not exceed the limits set forth in Article III section 26, of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

6. The applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: Monthly average total assets of each STAR Fund Portfolio and each of its acquired Vanguard funds; monthly purchases and redemptions (other than by exchange) for each STAR Fund Portfolio and each of its acquired Vanguard Funds; monthly exchanges into and out of each STAR Fund Portfolio and each of its acquired Vanguard Funds; month-end allocations of each STAR Fund Portfolio's assets among its acquired Funds; annual expense ratios for each STAR Fund Portfolio and each of its acquired Vanguard Funds; and a description of any vote taken by the shareholders of any acquired Vanguard Fund, including a statement of the percentage of votes cast for and against the proposal by STAR and by the other shareholders of the acquired Vanguards Funds. Such information will be provided as soon as reasonably practicable following each fiscal year-end of STAR (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–24183 Filed 9–28–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2806; Amendment #2]

Ohio; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective September 13, 1995, to include Washington County in the State of Ohio as a disaster area due to damages caused by severe storms and flooding which occurred August 7–18, 1995.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Athens, Monroe, Morgan, and Noble in the State of Ohio, and Pleasants, Tyler, and Wood Counties in the State of West Virginia may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is October 24, 1995, and for loans for economic injury the deadline is May 28, 1996.

The economic injury number for the State of West Virginia is 863800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 21, 1995.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 95–24234 Filed 9–28–95; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2812]

Commonwealth of Puerto Rico; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on September 16, 1995, and an amendment thereto on September 18, I find that the Municipalities of Culebra and Vieques in the Commonwealth of Puerto Rico constitute a disaster area due to damages caused by Hurricane Marilyn beginning on September 15, 1995 and continuing. Applications for loans for physical damages may be filed until the close of business on November 14, 1995, and for loans for economic injury until the close of business on June 17, 1996, at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 281208 and for economic injury the number is 863700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 21, 1995.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 95–24232 Filed 9–28–95; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2811]

U.S. Territory of the Virgin Islands; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on September 16, 1995, and an amendment thereto on September 18, I find that the Islands of St. Croix, St. John, and St. Thomas in the U.S. Virgin Islands constitute a disaster area due to damages caused by Hurricane Marilyn beginning on September 15, 1995 and continuing. Applications for loans for physical damages may be filed until the close of business on November 14, 1995, and for loans for economic injury until the close of business on June 17, 1996, at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 281108 and for economic injury the number is 863600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 21, 1995.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 95–24233 Filed 9–28–95; 8:45 am]

BILLING CODE 8025–01–P

Odyssey Partners SBIC, L.P. (License No. 02/72–0554); Notice of Surrender of Licensee

Notice is hereby given that Odyssey Partners SBIC, L.P. ("Odyssey"), of 31 West 52nd Street, New York, New York 10019, has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). Odyssey was licensed by the Small Business Administration on September 19, 1994.

Under the authority vested by the Act and Pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on August 4, 1995, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1995.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 95–24191 Filed 9–28–95; 8:45 am]

BILLING CODE 8025–01–P

Equity Investment Partners, L.P. (Application No. 99000181); Notice of Filing of an Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1994)) by Equity Investment Partners, L.P. ("the (Applicant"), 500 Post Road East, Westport, Connecticut 06880, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958 ("the Act"), as amended (15 U.S.C. 661 *et. seq.*), and the Rules and Regulations promulgated thereunder. The Applicant is a limited partnership formed under Delaware law. The General Partner of the Applicant is Equity Investment Partners, L.L.C. The affairs of the Applicant will be managed by Equity Investment Advisors, L.L.C. ("the Manager"). Principals of the Manager are Messrs. Stephen D. Weinroth, G. Chris Andersen and Randolph W. Lanz. Messrs. Russell B. Pyne and George B. Schwartz will assist as a source of deals and in recommending and monitoring investments, and will be responsible for day-to-day administration of the Manager. The Applicant will have capitalization of $30 million and will be a source of equity financings for qualified small business concerns. Primary focus will be on the manufacturing, services and communications businesses throughout the United States. Factors in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of success of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Westport, Connecticut.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: September 22, 1995.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 95–24192 Filed 9–28–95; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 27782]

RIN 2120–AF90

Proposed Policy Regarding Airport Rates and Charges

AGENCY: Department of Transportation (DOT), Federal Aviation Administration (FAA).

ACTION: Notice of meeting.

SUMMARY: On September 8, 1995, the Department of Transportation and the Federal Aviation Administration published a supplemental notice of a proposed policy statement in the **Federal Register** (60 FR 47012) with respect to fair and reasonable and not unjustly discriminatory airport rates and charges and announced that at least two meetings for oral views would be held. The proposed policy statement sets forth DOT/FAA policy regarding airport practices that DOT/FAA would consider to be consistent with Federal requirements for airport rates and charges for aeronautical uses. This notice announces the date, time, location and procedures for the first meeting. A separate notice will be published about additional meetings.

DATES: The public meeting will be held on October 17, 1995, starting at 9 a.m. Pursuant to the September 8, 1995 Supplemental Notice, written comments are also invited and must be received on or before October 23, 1995.

ADDRESSES: The public meeting will be held at the Department of Transportation, Nassif Bldg., Room 2230, 400 7th St. SW., Washington, DC 20590. Persons unable to attend the meeting may mail their comments in quadruplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–200), Dockets No. 27782, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Requests to participate in public meeting should be directed to Kevin Hehir at (202) 267–8224, Federal Aviation Administration, Airport Safety and Compliance, 800 Independence Ave. SW., Washington, DC 20591.

Questions concerning the subject matter of the meeting may be directed to Barry Molar, Federal Aviation Administration, Airports Law Branch, AGC–610, 800 Independence Ave. SW., Washington, DC 20591; telephone (202) 267–3473.

The full text of the Supplemental Notice is also available on the Office of Airport Safety and Standards Electronic Bulletin Board. Persons with a computer and modem, and communications software, can access the bulletin board by setting the modem parameters to match those of the bulletin board before dialing. Upon connection with the bulletin board for the first time, users are required to register by answering a short questionnaire. The bulletin board is menu-driven, and detailed instructions for downloading files are provided. The Supplemental Notice cannot be read on-line, but can be easily downloaded and saved.

The bulletin board parameters are as follows:

Telephone number: (202) 267–5205, or 1–800–224–6287 via FAA Corporate Bulletin Board
Data bits: 8
Parity: None
Stop bits: 1
Baud rate: 300/1200/2400/9600/14400
System operator: Jeff Rapol, AAS–200; (202) 267–7474

SUPPLEMENTARY INFORMATION:

Participation at the Meeting

Request from persons who wish to participate at the public meeting should be received by the FAA no later than October 10, 1995. Such requests should be submitted to Kevin Hehir as listed in the section title **FOR FURTHER INFORMATION CONCTACT** and should include a statement of the interest represented by the speaker, e.g., as a representative of an airport proprietor, an air carrier, a foreign air carrier, or other aeronautical user. Requests received after the date specified above will be scheduled if they can be accommodated, but in view of the format for presentation, as discussed below, accommodation of late requests cannot be assured. The FAA will prepare an agenda of speakers that will be available at the time of the meeting.

Background

On September 8, 1995, the DOT and FAA jointly published in the **Federal Register** a supplemental notice of proposed policy regarding fair and reasonable nondiscriminatory airport rates and charges (40 FR 47012). Specifically, the supplemental notice of proposed policy sets forth proposed revisions to the interim final policy on airport rates and charges published jointly by the DOT and FAA on February 3, 1995 (60 FR 6906). In the February 3 publication, DOT/FAA requested comments on the interim policy, and the supplemental notice reflects DOT/FAA consideration of the comments received. DOT/FAA have published the supplemental notice of proposed policy for comment and are conducting public meetings to assure that any modifications in the interim policy are based on as full an understanding of the industry practices as possible and to provide a full opportunity for industry input into the policy. The meeting will be structured to permit informal discussion among the various interested parties rather than simply delivery of prepared comments for the record.

Meeting Procedures

The following procedures are established to facilitate the meeting:

(1) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who have requested in advance to participate. Registration will be available on the day of the meeting (between 8:00 a.m. and 9:00 a.m.). However, in view of the format of the meetings, there is no assurance that persons who register on the day of the meeting will have the opportunity to fully participate.

(2) There will be a morning and afternoon break as well as a break for lunch.

(3) The meeting may adjourn early if scheduled panels of speakers complete their presentations in less time than is scheduled for the meeting.

(4) DOT/FAA will try to accommodate all speakers in the context of the format for this public meeting. However, the FAA reserves the right to exclude some speakers if necessary to assure that all panels represent a balance of viewpoints and concerns.

(5) Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested at the above number by October 15, 1995.

(6) Representatives of the FAA will preside over the meeting. A panel of DOT and FAA personnel will hear comments and question other participants. Presentations by commenters will be made on panels of up to 5 persons, rather than individually. The Department will assign interested persons to panels before the meeting, and will attempt to have each panel representative of different segments of the industry. At a minimum, each panel should include both airline and airport representatives.

(7) Each participant on a panel may make a brief opening statement and submit written materials for the record. After completion of the statements by all members of the panel, agency personnel will question commenters on their statements and views, and may inquire into commenters' experience with specific industry practices. Appropriate questions may be directed by one panel member to another, through the agency moderator. Questions and comments from the floor will be taken if time permits.

(8) Opening statements will be limited to 2 minutes. Each panel will be limited to no more than one hour. The meeting will include as many panels as are necessary to accommodate all interested commenters.

(9) The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by the panel during the meeting will be included in the public docket. Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly. This information will be available at the meeting.

(10) The DOT/FAA will review and consider all material presented by participants at the meeting. Position papers or material presenting views or information related to the proposed policy statement may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. The FAA requests that persons participating in the meeting provide 10 copies of all materials to be presented for distribution to the panel members; other copies may be provided to the

audience at the discretion of the participant.

(11) Statements made by the members of the meeting panel are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by a member of the panel is not intended to be, and should not be construed as, a position of the FAA.

Issued in Washington, DC, on September 26, 1995.

Cynthia Rich,

Assistant Administrator for Airports.

[FR Doc. 95–24257 Filed 9–28–95; 8:45 am]

BILLING CODE 4910–13–M

Centers of Excellence in Operations Research; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of an information meeting regarding technical proposals for the establishment of an FAA Aviation Research Center of Excellence in Operations Research. The FAA will hold the meeting to explain further the FAA research needs, procedures, and criteria for the selection of the FAA Aviation Research Center of Excellence in Operations Research. Questions and suggestions from attendees will be addressed at this meeting. Interested parties are encouraged, but not required, to attend the informational meeting.

DATES: The meeting will be held November 1, 1995, from 10 a.m. to 4 p.m.

ADDRESSES: The meeting will be held in the Media Briefing Room, Ninth Floor, FAA Headquarters Building, 800 Independence Avenue, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The Office of Research and Technology Applications, AAR–201, FAA Aviation Research Centers of Excellence Program Office, Building 270, Atlantic City International Airport, NJ 08405, telephone (609) 485–5043/4042, facsimile (609) 485–6509.

SUPPLEMENTARY INFORMATION: The FAA intends to award a 50–50 cost share cooperative agreement to establish a COE in operations research at a qualified college or university. The cooperative agreement will be awarded in 3 year increments up to a maximum of 10 years. It is the FAA's intent to fund the first three years at $1.5 million. It is also the intent of the FAA to award a 10 year, sole-source indefinite delivery quantity contract to the winner of the competition, under which orders may be placed for development products up to a maximum of $10 million.

The Center will conduct research in the following areas: Airport surface operations, airport terminal operations and en route flight, external flight hazards, and concomitant systems.

The FAA is responsible for developing standards for a variety of aviation-related technologies including capacity, controller workload, threat modeling and resource allocation.

The COE for Operations Research will assist the FAA in the pursuit of advanced operations methodologies which are validated through full scale testing.

The FAA will provide funding for a long-term partnership to establish and operate a "World Class" COE in support of Operations Research. The FAA encourages offerors to develop a team of academia, industry, state/local government and other government agencies. The recipient is required to match FAA funds with non-federal funding over the term of the cooperative agreement. Matching funds are not required for any orders placed under the contract.

Selection Criteria

The COE will be selected primarily on technical merit and the ability of the team to meet the following criteria:

—The extent to which the needs of the State in which the applicant is located are representative of the needs of the region for improved air transportation services and facilities.

—The demonstrated research and extension resources available to the applicant for carrying out the intent of the legislation.

—The capability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

—The extent to which the applicant has an established air transportation program.

—The demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or regionwide continuing education program.

—The projects that the applicant proposes to carry out under the grant.

Those persons wishing to attend this informational meeting are requested to register by no later than October 30, 1995. To register for the meeting or to obtain more information about the meeting, contact Ms. Patricia Watts, (609) 485–5043, or Dave Nesterok (609) 485–4042 or facsimile (609) 485–6509 at the Office of Research and Technology Applications, FAA Aviation Research Centers of Excellence Program Office, at the FAA Technical Center, Building 270, Atlantic City International Airport, NJ 08405 or facsimile 609–485–6509.

Issued in Washington, DC, on September 26, 1995.

Andres G. Zellweger,

Director, Office of Aviation Research.

[FR Doc. 95–24265 Filed 9–28–95; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., Free Flight Implementation Task Force; Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Free Flight Implementation Task Force meeting to be held October 17, 1995. The meeting will be held in the Hayes Building Auditorium at the MITRE Corporation, 7525 Colshire Drive, McLean, Virginia. The meeting will begin at 9:00 a.m. The purpose of the meeting is to review the key elements and recommendations in the Task Force 3 final report.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 25, 1995.

Janice L. Peters,

Designated Official.

[FR Doc. 95–24168 Filed 9–28–95; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc. Special Committee 159; Minimum Operational Performance Standards for Airborne Navigation Equipment Using Global Positioning System (GPS)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 meeting to be held October 23–27, 1995, starting at 9 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

The agenda for October 23, October 24, and October 26 will address specific working group issues as follows: October 23–24, Working Group 6, Interference Issues; October 24, Working Group 3A, Inertial; October 26 (Afternoon), Working Group 4, Precision Landing Guidance & Airport Surface Surveillance.

The agenda for the October 25–27 Plenary Session will be as follows: (1) Chairman's Introductory Remarks; (2) Review and Approval of Minutes of the Previous Meeting; (3) Review Working Group (WG) Progress and Identify Issues for Resolution: a. GPS/GLONASS (WG–1); b. GPS/GIC/WADGNSS (WG–2); c. GPS/Other Navigation Systems (WG–3A/B); d. GPS/Precision Landing Guidance and Airport Surface Surveillance (WG–4A/B); e. Fault Detection and Isolation (WG–5); f. Interference Issues (WG–6); g. Antenna Performance (WG–7); (4) Review of EUROCAE Activities; (5) Review/Approval of WAAS MOPS; (6) Assignment/Review of Future Work; (7) Other Business; (8) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 26, 1995.

Janice L. Peters,

Designated Official.

[FR Doc. 95–24258 Filed 9–28–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Sarasota Bradenton International Airport, Sarasota, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Sarasota Bradenton International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 30, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Raymond J. Wise, Interim Executive Director of the Sarasota Manatee Airport Authority at the following address: Sarasota Manatee Airport Authority, 6000 Airport Circle, Sarasota, Florida 34243.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Sarasota Manatee Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Pegy Jones, Airport Plans and Programs Manager, 9677 Tradeport Drive, Suite 130, Orlando, Florida, 32827, 407–648–6583, Ext. 28. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Sarasota Bradenton International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158)

On September 20, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Sarasota Manatee Airport Authority was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 29, 1995

The following is a brief overview of PFC Application No. 95–03–C–00–SRQ.

Level of the proposed PFC: $3.00

Proposed charge effective date: September 1, 1992

Proposed charge expiration date: April 1, 2001

Total estimated PFC revenue: $22,387,893

Total estimated PFC revenue to be used on projects in this application: $14,350,000

Total Impose only authority deleted in this application: $12,790,000

Brief description of proposed project(s):

Project 101B Federal Aviation Regulation (FAR)—Part 150 Program Funding (Use)
Project 102 Airfield Drainage Improvements (Use)
Project 107 Lengthen Runway (14/32 (Use)
Project 117 Development of Regional Impact Report (Impose & Use)

Projects Deleted:

Project 111 Construct Airside A
Project 112 Rehabilitate Taxiway D
Project 114 Rehabilitate Taxiway C
Project 115 Land Acquisition New Runway
Project 116 Construct New Runway

Class or classes of air carriers which the public agency has requested to be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Sarasota Manatee Airport Authority.

Issued in Orlando, Florida on September 22, 1995.

John W. Reynolds, Jr.,

Acting Manager, Orlando Airports District Office Southern Region.

[FR Doc. 95–24169 Filed 9–28–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Supplemental Draft and Final Environmental Impact Statement; Tuscaloosa County, Alabama

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplemental Draft and a Final Environmental Impact Statement will be prepared for a proposed highway project in Tuscaloosa County, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Joe D. Wilkerson, Division Administrator, Federal Highway Administration, 500 Eastern Boulevard, Suite 200, Montgomery, Alabama 36117, Telephone: (334) 223–7370, Mr. Jimmy Butts, Director, State of Alabama Department of Transportation, 1409 Coliseum Boulevard, Montgomery, Alabama 36130, Telephone (334) 242–6311.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the State of

Alabama Department of Transportation, will prepare and circulate for comment a Supplemental Draft and a Final Environmental Impact Statement (EIS) for Alabama Highway Project DPI–0080(001) Tuscaloosa County, Alabama. This is a proposed bypass of the cities of Northport and Tuscaloosa, approximately 29 km (18 miles) in length, beginning at I–59 east and extending north and west around Tuscaloosa and Northport to U.S. Route 82 west of Northport. The proposed limited access multi-lane facility provides a much needed new crossing of the Black Warrior River which runs generally east and west through the metropolitan area. There are presently two routes serving the Tuscaloosa/Northport area that cross the Black Warrior River. Both of these facilities have become severely congested creating the need for additional river crossings. The Tuscaloosa Area Long Range Transportation Plan includes two new river crossings. This proposed project is the more urgently needed of the two.

A Notice of Intent was previously published on September 17, 1992, to prepare an Environmental Impact Statement for this project. Early coordination letters describing the proposed action and soliciting comments were sent to appropriate Federal, State, local agencies, and to private organizations and citizens who had expressed or were known to have an interest in the proposal. A scoping meeting, four public involvement meetings, and public hearings were held to describe the project and solicit public/private input. After these meetings, hearings and consideration of comments, the location of a river crossing was selected and a FONSI approved on January 14, 1994, for a separate project within the overall limits of the bypass for construction of a bridge across the river. Funding to begin bridge construction was provided in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA).

A Draft Environmental Impact Statement (FHWA–AL–EIS–94–01–D) for the bypass, which also included discussion of the river crossing project, was approved on June 1, 1994. After circulation of the Draft Environmental Impact Statement and the public hearing, new comments and objections to the alignment north of the river were raised by residents of a subdivision north of the river near the proposed location. In order to ensure that there was full public knowledge of the proposed project and to clarify apparent confusion by some citizens, a Supplemental Draft Environmental Impact Statement will be prepared for the entire route. Right-of-way acquisition for the bridge project will not proceed until approval of the Final Environmental Impact Statement and Record of Decision for the entire route.

Alternatives to be considered and discussed in the Supplemental Draft Environmental Impact Statement include: (1) No Action; (2) Postponing the Action; (3) Reduced Facility; (4) Improving the Existing Facility; (5) Alternate Locations for the Build Alternative; (6) Alternate Design Features. Another public hearing will be held after approval of the Supplemental Draft Environmental Impact Statement and its availability to the public.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the Supplemental Draft and Final Environmental Impact Statement should be directed to the FHWA at the address provided above.

Alfred T. Russell,

Assistant Division Administrator, Federal Highway Administration, Montgomery, Alabama.

[FR Doc. 95–24186 Filed 9–28–95; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

September 15, 1995.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the survey described below in early October, the Department of the Treasury is requesting Office of Management and Budget (OMB) review and approval of this information collection by September 29, 1995. To obtain a copy of this survey, please write to the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.
Project Number: PC:V 95–014–G.
Type of Review: Revision.
Title: Ensuring Compliance Focus Groups.

Description: This effort to determine expectations supports the objective of the Ensuring Compliance which is to preserve the integrity of the voluntary tax system by continually measuring compliance behavior, identifying noncompliance, determining root causes, and taking actions to improve compliance.

Respondents: Individuals or households.

Estimated Number of Respondents: 72.

Estimated Burden Hours Per Respondent:

Screening participants—2 hours
Interview—2 hours
Travel—1 hour

Frequency of Response: Other.
Estimated Total Reporting Burden: 301 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–24313 Filed 9–28–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review.

September 19, 1995.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Departmental Offices/Office of Procurement

OMB Number: 1505–0107.
Form Number: None.
Type of Review: Extension.

Title: Regulation on Agency Protests.

Description: Information requested of contractors so that the Government will be able to evaluate protests effectively and provide prompt resolution of issues in dispute when contractors file agency-level protests.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 17.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 34 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–24314 Filed 9–28–95; 8:45 am]

BILLING CODE 4810–25–P

Public Information Collection Requirements Submitted to OMB for Review

September 21, 1995.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to ensure that the applications described below are available for use to obtain grants and technical assistance under the Community Development Financial Institutions (CDFI) and the Bank Enterprise Award (BEA) Programs the Department of the Treasury is requesting Office of Management and Budget (OMB) review and approval by close of business September 29, 1995.

Departmental Offices/Community Development Financial Institutions Fund

OMB Number: New.

Form Number: CDFI–0001.

Type of Review: New collection.

Title: Community Development Financial Institutions Program Application.

Description: The CDFI Program Applications will be used by applicants to apply for financial or technical assistance under the Community Development Financial Institutions Program to enhance their ability to make loans and investments and provide services for the benefit of investment areas and targeted populations, or to apply for CDFI certification.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 300.

Estimated Burden Hours Per Response: 100 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 30,000 hours.

OMB Number: New.

Form Number: CDFI–0002.

Type of Review: New collection.

Title: Bank Enterprise Award Program Application.

Description: The BEA Program Applications will be used by applicants under the BEA Program to apply for awards for making equity investments in Community Development Financial Institutions and carrying out certain eligible activities in distressed communities.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Response: 10 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,000 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–24316 Filed 9–28–95; 8:45 am]

BILLING CODE 4810–25–P

Public Information Collection Requirements Submitted to OMB for Review

September 25, 1995.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: New.

Form Number: IRS Form 8888.

Type of Review: New collection.

Title: Direct Deposit of Refund.

Description: This is an optional form used by taxpayers to request that their income tax refund be directly and automatically deposited into their account at a bank or other financial institution.

Respondents: Individuals or households.

Estimated Number of Respondents: 15,000,000.

Estimated Burden Hours Per Respondent:

Learning about the law or the form—3 minutes

Preparing the form—7 minutes

Copying, assembling, and sending the form to the IRS—10 minutes

Frequency of Response: Annually.

Estimated Total Reporting Burden: 5,100,000 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–24317 Filed 9–28–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

September 25, 1995.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department

Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the survey described below in mid to late October, the Department of Treasury is requesting Office of Management and Budget (OMB) review and approval of this information collection by October 6, 1995. To obtain a copy of this survey, please write to the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.

Project Number: PC:V 95–015–G

Type of Review: Revision.

Title: California Mortgage Bankers Association Focus Groups with Users and Lenders.

Description: The Core Business System for Value Tracking and the National Office Research and Analysis Division (NORA) are proposing to conduct a series of focus groups around the California Mortgage Bankers Association (CMBA) project now being implemented in the Western Region. IRS would like to discuss the program with actual customers (loan applicants) and with the principle stakeholders (bankers). In addition, based on feedback already received, IRS proposes gathering information from interested government agency representatives on how this initiative might be expanded to other government agencies as well as private industry.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 60.

Estimated Burden Hours Per Respondent: 3 hours, 5 minutes.

Frequency of Response: Other.

Estimated Total Reporting Burden: 255 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–24318 Filed 9–28–95; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INFORMATION AGENCY

Office of Citizens Exchange; NIS Secondary School Initiative; Secondary School Link Program

AGENCY: United States Information Agency.

ACTION: Amendment—request for proposals.

SUMMARY: This is an amendment to the request for proposals (RFP) published on August 17, 1995, beginning page 42943 and ending on page 42945, concerning exchanges through school linkage programs with the New Independent States of the former Soviet Union (Announcement Number E/P–96–14). On page 42943 column 1, under Summary the sentence "USIA grant funds may not be used for student or teacher exchanges located in the cities of Moscow or St. Petersburg, Russia." is replaced by the following language: "Priority will be given to exchanges outside of Moscow and St. Petersburg." Also in an effort to clarify possible thematic foci, suggested themes for exchange projects include but are not limited to the following: Health education, civics education, social and environmental issues, in both the U.S. and the NIS, the American political system, youth leadership training, computer technology, the environment, agriculture, business administration/management (including enterprise promotion), and volunteerism.

FOR FURTHER INFORMATION CONTACT: Naomi Feigenbaum, NIS Secondary School Division, E/PY, Room 320, USIA, 301 4th Street, SW. Washington, D.C. 20547, tel. (202) 619–6299; Fax (202) 619–5311; e-mail nfeigenb@usia.gov.

Dated: September 25, 1995.

Dell Pendergrast,

Deputy Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 95–24172 Filed 9–28–95; 8:45 am]

BILLING CODE 8230–01–M

Meeting of the Advisory Board for Cuba Broadcasting

The Advisory Board for Cuba Broadcasting will conduct a meeting on Friday, September 29, 1995, in Union City, New Jersey, at 6:00 p.m. The intended agenda is listed below.

Agenda

Friday, September 29, 1995
Part One—Closed to the Public
6:00 p.m. Technical Operations Update
Part Two—Open to the Public
6:30 p.m.

1. Approval of Minutes
2. Congressional Liaison Report
3. Status of Investigations:
   (a) Inspector General
   (b) General Accounting Office
   (c) President's Council on Integrity and Efficiency
4. Focus Group Results
5. Update on Radio and TV Marti
6. Public Testimony
7. Old Business
8. New Business
9. Adjournment

The Technical Operations Update discussed from 6:00 p.m. to 6:30 p.m. will be closed to the public. Discussion of this item will include information the premature disclosure of which would be likely to frustrate the implementation of a proposed Agency action (5 U.S.C. 522(c)(9)(B)).

Members of the public interested in attending the open portion of the meeting should contact Ms. Angela R. Washington, at the Advisory Board Office. Ms. Washington can be reached at (202) 401–2178.

Dated: September 22, 1995.

Joseph Duffey,

Director, United States Information Agency.

[FR Doc. 95–24173 Filed 9–28–95; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Medical Research Service Merit Review Committee, Amended Notice of Meeting

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App., that the Subcommittee for Cardiovascular Studies, formerly scheduled to meet October 2–3, 1995, has been rescheduled to meet October 30–31, 1995, from 8 a.m. to 5 p.m. at the Holiday Inn Central, 1501 Rhode Island Avenue, NW, Washington, DC.

This meeting will be for the purpose of evaluating the scientific merit of cardiovascular research by the Department of Veterans Affairs (VA) investigators working in VA Medical Centers and Clinics.

This meeting will be open to the public up the seating capacity of the room at the start of the meeting to discuss the general status of the program. It will then be closed to the public after approximately one hour from the start for the review, discussion, and evaluation of initial and renewal projects.

The closed portion of the meeting involves: discussion, examination,

reference to, and oral review of site visits, staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of this meeting is in accordance with 5 U.S.C. 552b(c) (6) and (9)(B). Because of the limited seating capacity of the rooms, those who plan to attend should contact Dr. LeRoy Frey, Chief, Program Review Division, Medical Research Service, Department of Veterans Affairs, Washington, DC, (202) 565–5942, at least five days prior to each meeting. Minutes of the meeting and a roster of the Subcommittee members may be obtained from this source.

Dated: September 21, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–24199 Filed 9–28–95; 8:45 am]

BILLING CODE 8320–01–M

Persian Gulf Expert Scientific Committee, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 92–463, gives notice that a meeting of the VA Persian Gulf Expert Scientific Committee will be held on:

Thursday, November 30, 1995, at 9:00 a.m.–5:00 p.m.

Friday, December 1, 1995, at 8:00 a.m.–12:01 p.m.

The location of the meeting will be 801 I Street, N.W., Washington, D.C., Room 1105.

The Committee's objectives are to advise the Under Secretary for Health about medical findings affecting Persian Gulf era veterans.

At this meeting the Committee will review all aspects of patient care and medical diagnoses and will provide professional consultation as needed. The Committee may advise on other areas involving research and development, veterans benefits and/or training aspects for patients and staff.

All portions of the meeting will be open to the public except from 9:00 a.m. until 11:00 a.m. on November 30, 1995. During this executive session discussions and recommendations will deal with medical records of specific patients and individually identifiable patient medical histories. The disclosure of this information would constitute a clearly unwarranted invasion of personal privacy. Closure of this portion of the meeting is in accordance with subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, and as cited in 5 U.S.C. 552b(c)(6).

The agenda for November 30 will begin with an update on recent events, followed by responses from Committee members. The first day's agenda will also cover reports on activities of the Presidential Advisory Committee on Gulf War Veterans' Illnesses and the Panel on Infectious/Parasitic Diseases of the Persian Gulf, as well as developments in the area of neurobiology.

On December 1 the Committee will undertake the writing of a status report. The second day's agenda will also include updates on the CDC Iowa Survey and VA Registry Exams.

Additional information concerning these meetings may be obtained from the Chairperson, Office of Public Health & Environmental Hazards, 810 Vermont Avenue, N.W., Washington, DC 20420.

Dated: September 21, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–24198 Filed 9–28–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 189
Friday, September 29, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:17 a.m. on Tuesday, September 26, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: September 26, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 95–24419 Filed 9–27–95; 2:18 pm]

BILLING CODE 6714–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, October 4, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–24420 Filed 9–27–95; 2:19 pm]

BILLING CODE 6210–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject of Meeting

The National Credit Union Administration Board determined that its business requires the deletion of the following item from the previously announced open meeting (Federal Register, Vol. 60, page 49320, September 22, 1995) scheduled for Thursday, September 28, 1995.

2. Approval of NCUA's Serving the Underserved Conference.

The Board voted unanimously that Agency business requires that this item by deleted from the open agenda and earlier announcement of this change was not possible.

The previously announced items were:

1. Approval of Minutes of Previous Open Meeting.
3. Proposed Rule: Amendments to Part 760, NCUA's Rules and Regulations, Flood Insurance.
4. Final Rule: Amendments to Section 701.21(c)(8), CUA's Rules and Regulations, Prohibited Fees.
5. Final Rule: Amendments to Part 722, NCUA's Rules and Regulations, Appraisals.
6. Proposed Amendments to Interpretive Ruling and Policy Statement (IRPS) 94–1, Chartering and Field of Membership.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 95–24446 Filed 9–27–95; 2:20 pm]

BILLING CODE 7535–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject of Meeting

The National Credit Union Administration Board determined that its business requires the addition of the following item, which is closed to public observation, to the previously announced closed meeting (Federal Register, Vol. 60, page 49320, September 22, 1995) scheduled for Thursday, September 28, 1995.

7. Budget Amendments, Delegations of Authority, and Procurement Policy. Closed pursuant to exemption (9)(B).

The Board voted unanimously that Agency business requires that this item be considered with less than the usual seven days advance notice, that it be closed to the public, and that no earlier announcement of this change was possible.

The previously announced items were:

1. Approval of Minutes of Previous Closed Meetings.
2. Request from a Corporate Federal Credit Union for a Waiver from Section 704.6, NCUA's Rules and Regulations. Closed pursuant to exemption (8).
3. Administrative Actions under Section 205 of the FCU Act. Closed pursuant to exemptions (8) and (9)(B).
4. Request from a Federal Credit Union for a Community Charter Expansion. Closed pursuant to exemption (8).
5. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
6. Personnel Actions. Closed pursuant to exemptions (2), (6), (8), and (10).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 95–24447 Filed 9–27–95; 8:45 am]

BILLING CODE 7535–01–M

federal register

Friday
September 29, 1995

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

Notice of Fund Availability for Fiscal Year 1995 for the Section 8 Rental Voucher Program and Rental Certificate Program

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3849–N–04]

Notice of Fund Availability (NOFA) for Fiscal Year 1995 For the Section 8 Rental Voucher Program and Rental Certificate Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Revision to the notice of fund availability (NOFA) for fiscal year (FY) 1995 for the rental voucher program and rental certificate program.

SUMMARY: The Department published the FY 1995 Notice of Fund Availability (NOFA) in the **Federal Register** on March 3, 1995 (60 FR 12036) for the Section 8 rental voucher program and rental certificate program. Corrections to that NOFA were published on April 17, 1995 (60 FR 19278) and on July 27, 1995 (60 FR 38567). This Notice cancels parts of the FY 1995 NOFA to comply with the provisions of the Emergency Supplemental Appropriations Act of 1995 (Pub. L. 104–19, 109 Stat. 194, dated July 27, 1995) (the Act), which rescinded most of the FY 1995 appropriations for incremental funding under the Section 8 rental voucher and rental certificate programs.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Office of Public and Indian Housing, Room 4220, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–8000, telephone (202) 708–0477. Hearing-impaired or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

The original 1995 NOFA provided for funding in the following categories: (1) Fair Share Allocations; (2) Mainstream Housing; (3) Homeless Families (non-competitive process); (4) Persons with AIDS (non-competitive process); (5) Section 8 Counseling; (6) Family Self-Sufficiency ("FSS") Service Coordinators; (7) Family Unification; (8) Relocation, Demolition and Disposition, and Replacement Housing; (9) Rental Voucher and Rental Certificate Renewals; (10) Section 23 Conversions; (11) Section 8 Amendments; (12) Housing Agency Portability Fees; (13) Natural disasters, Other Housing Emergencies, Litigation, and Desegregation of Public Housing; (14) FY 1994 funding for Homeless Persons With Disabilities; (15) FY 1994 funding for Homeless Veterans; (16) FY 1994 funding for Family Unification; and (17) FY 1994 funding for FSS Service Coordinators.

On July 25, 1995, the Act rescinded funding for incremental allocations that had not yet been obligated. The Act allows HUD to use any remaining appropriations, after rescission, for new incremental rental assistance to fund Section 8 applications only for the following specific purposes: (a) For residents to be relocated from existing federally subsidized or assisted housing, (b) for replacement housing for units demolished or disposed of (including units disposed of pursuant to homeownership programs under section 5(h) or title III (HOPE 1 and HOPE 2) of the U.S. Housing Act of 1937), (c) for funds related to litigation settlements or court orders, (d) for amendments to contracts to permit continued assistance to participating families, and (e) to enable public housing authorities to implement "mixed population plans" for developments housing primarily elderly residents.

II. Departmental Action

HUD is canceling the previous FY 1995 NOFA with respect to funding under several of the subprograms to which the Rescission Act applies. Under the FY 1995 NOFA, HUD intends to award incremental funding for applications submitted for only the following components of the program: the family unification subprogram (category 7); the mainstream housing opportunities for persons with disabilities subprogram in connection with designated housing allocation plans (part of category 2 related to designated housing). Funding for the first of these programs remained after the rescission, and funding for the second category fits within the Rescission Act's category (e).

In addition, the Department intends to renew the funding for the family self-sufficiency (FSS) service coordinators for housing agencies (HAs) awarded FY 1994 funding (category 17), as well as to fund rental voucher and rental certificate renewals (category 9), section 23 conversions (category 10), Section 8 amendments (category 11), and special portability fees (category 12). This funding is not incremental funding, and so not prohibited by the Rescission Act. Some subprograms also will be funded from carryover funds, to the extent they are available.

Accordingly, the Department is revising the March 3, 1995, NOFA (60 FR 12036) as follows:

1. Of the amounts appropriated for the family unification program, $15 million was rescinded leaving approximately $73 million in FY 1995 funding for applications submitted in response to the NOFA. Therefore, applications will be awarded in accordance with the lottery process described in the March 3, 1995, NOFA (60 FR 12045), as limited by the amount of funding now available.

2. Applications were submitted for approximately $17.3 million in response to the NOFA for the mainstream housing for persons with disabilities subprogram for use in connection with designated housing allocation plans. HUD will approve the Section 8 applications for all HAs that submitted a designated housing allocation plan that is also approved by HUD.

3. The Department will not fund applications submitted in response to the NOFA for the following subprograms due to the rescission of appropriations:

A. Fair Share;

B. Mainstream Housing Opportunities (General Program only);

C. Homeless Families; and

D. Persons with HIV/AIDS.

4. Section IX(H), "FY 94 NOFA for Homeless Persons with Disabilities", of the March 3, 1995 NOFA (60 FR 12058) stated that HUD would issue funds to the HAs selected for funding in response to the February 1, 1994 NOFA (59 FR 4758). In September 1994, a portion of the funds available for the FY 1994 NOFA were reserved and subsequently annual contribution contracts were executed. All other funds available under the FY 1994 NOFA that were not committed under Annual Contributions Contracts with specific HAs in September of FY 1994 are no longer available.

5. The funds remaining for the family self-sufficiency service coordinator subprogram were reduced to approximately $8.7 million for FY 1995. These funds will be awarded to those housing agencies awarded funding in response to the NOFA published on August 29, 1994 (59 FR 44550). As indicated in the March 3, 1995 NOFA, HUD will provide FY 1995 funding to all the HAs that received funding in response to the August 29, 1994 NOFA at 103 percent of the amount of FY 1994 funds awarded. New or revised applications from previously funded HAs or applications from new HAs will not be considered by HUD.

6. Of the funds available for the Section 8 counseling subprogram, $70 million was rescinded, leaving $101

million. Some of these funds already were reserved for use in connection with litigation, and the remaining funds are not sufficient to fund the applications submitted in response to the NOFA. As a result, HUD will publish a new NOFA for Section 8 counseling inviting public housing agencies to apply under the terms of the new NOFA.

7. HUD will continue to make funds available to fulfill relocation and replacement housing, voucher and certificate renewals, voucher and certificate needs in connection with litigation, Section 23 conversions, Section 8 amendments, and Section 8 counseling needs in connection with litigation and relocation of families from public housing. HUD will notify the housing agencies that are selected to receive funding under these subprogram categories. HUD also will continue to fund HA requests for special portability fees; HA requests should continue to be submitted directly to the HUD State or Area Office.

8. HUD plans to destroy all applications submitted in response to the FY 1995 NOFA for all subprograms for which no funds will be made available. Any HAs interested in having their unfunded applications returned should contact the following: for all subprograms other than Section 8 counseling—the Office of Public Housing or the Office of Native American Programs, as applicable, in the local HUD office; for Section 8 counseling—Mr. Laurence Pearl, Office of Program Standards and Evaluation, Fair Housing and Equal Opportunity (FHEO), Room 5226, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–0288, ext. 265. Hearing-impaired or speech-impaired individuals may call FHEO's TDD number (202) 708–4112.

Dated: September 21, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 95–24202 Filed 9–28–95; 8:45 am]

BILLING CODE 4210–33–P

federal register

Friday
September 29, 1995

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Notification to Air Traffic Control (ATC) of Deviations From ATC Clearances in Response to Traffic Alert and Collision Avoidance System Resolution Advisories; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 27717; Amdt. No. 91–244]

RIN 2120–AF35

Notification to Air Traffic Control (ATC) of Deviations From ATC Clearances in Response to Traffic Alert and Collision Avoidance System Resolution Advisories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action codifies the previously announced policy extended to pilots during the initial testing of the Traffic Alert and Collision Avoidance System (TCAS) during the Limited Implementation Plan for TCAS, and during the actual implementation of TCAS under the TCAS Transition Plan (TTP). This policy permitted pilots to deviate from an air traffic control (ATC) clearance, in non-emergency situations, when responding to a TCAS resolution advisory (RA). The language contained in current regulations suggests that deviation from an ATC clearance is authorized only in an emergency situation. The intended effect of this action is to add the TCAS RA as a reason to deviate from a clearance, and to require that whenever a pilot deviates from an ATC clearance, ATC will be advised as soon as possible.

EFFECTIVE DATE: October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Mrs. Ellen Crum, Air Traffic Rules Branch, ATP–230, Airspace Rules and Aeronautical Information Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On December 26, 1989, the FAA published a petition for rulemaking, received from the Air Transport Association of America (ATA), that requested the FAA amend section 91.75(a) of the Federal Aviation Regulations (FAR) to permit a pilot to deviate from an ATC clearance when responding to a TCAS RA (54 FR 52951). (Effective August 18, 1990, part 91 of the FAR was revised (54 FR 34284; August 18, 1989) to renumber all of its sections. Section 91.75(a) was renumbered as section 91.123(a).)

Section 91.123 of the FAR states, in pertinent part, that each pilot in command who, in an emergency, deviates from an ATC clearance shall notify ATC of that deviation as soon as possible. The ATA petition states that TCAS is an advisory system and not an emergency system. The ATA feels that pilots should be able to comply with a TCAS RA without exercising emergency authority. The ATA petition mirrors current FAA policy and guidance for the use of TCAS II. The petition drew no negative comments and one positive comment from the Airline Pilots Association (ALPA) that supported the proposal.

On April 9, 1994, the FAA published a Notice of Proposed Rulemaking (59 FR 22142, Notice No. 94–16) that proposed to amend Section 91.123(a) of the FAR in accordance with the ATA petition. In addition, this NPRM proposed to amend § 91.123(c) of the FAR to require pilots to notify ATC as soon as possible if they deviate from a clearance in response to a RA. The comment period for this NPRM closed on May 31, 1994 and comments are discussed later in this document.

Currently, regulations do not provide for any deviation from an ATC clearance except in an emergency situation. However, during the initial trial and implementation of TCAS II, the FAA notified pilots that no enforcement action would be initiated if the pilot deviated from an ATC clearance when responding to a TCAS RA. A letter signed by former FAA Administrator James B. Busey was published as Appendix C to the TTP Project Management Plan, dated August 1, 1990. The FAA also provided procedural guidance in Advisory Circular 120–55, "Air Carrier Operational Approval and Use of TCAS II" dated October 23, 1991, and later amended as AC 120–55A dated August 27, 1993. The policy and guidance proved successful during the testing and implementation of TCAS II.

Related Agency Actions

On January 10, 1989, the FAA published a final rule (54 FR 940), known as the "TCAS rule," that required airplanes having more than 30 passenger seats and operated under part 121, 125, or 129 to be equipped with TCAS II by December 30, 1991. The TCAS rule also required airplanes having 10 to 30 passenger seats and operated under part 129 or 135 to be equipped with TCAS I by February 9, 1995; this compliance date was subsequently extended to December 31, 1995 (59 FR 67584, December 29, 1994). On April 9, 1990, the FAA amended the TCAS rule by revising the schedule for the installation of TCAS II equipment in airplanes having more than 30 passenger seats (55 FR 13242). Operators of airplanes having more than 30 passenger seats and operated under part 121 were required to install TCAS II equipment in accordance with a phased-in schedule so that 100% of an operator's covered airplanes would be equipped by December 30, 1993. Operations conducted under part 125 or 129 with airplanes having more than 30 passenger seats were also required to install TCAS II equipment by December 30, 1993.

TCAS

TCAS is airborne equipment that interrogates ATC transponders of other aircraft nearby. By computer analysis of the replies, TCAS equipment determines which transponder-equipped aircraft are potential collision hazards and provides appropriate advisory information to the flight crew. If a TCAS-equipped airplane interrogates an aircraft that is equipped with a transponder without altitude reporting capability (Mode A), range and azimuth information will be provided to the TCAS-equipped aircraft. If the interrogated aircraft is equipped with an altitude encoding transponder (Mode C or Mode S), then relative altitude information will be provided in addition to range and azimuth. TCAS equipment cannot detect the presence of an aircraft that is not equipped with a transponder.

TCAS equipment performs proximity tests on each detected target. If the path of a target is projected to pass within certain horizontal and vertical distance criteria, then that target is declared an intruder. An intruder that is determined to pose an even greater risk of collision is declared a threat. When a threat is declared, TCAS equipment will determine the appropriate direction that the TCAS-equipped aircraft must move (climb or descend) and the vertical rate that must be maintained to achieve separation from the threat.

There are two classes of advisories provided by TCAS equipment. The first class, the "traffic advisory" (TA), provides supplemental information to the pilot that aids in visual detection of other aircraft. TA's include the range, bearing, and if the intruder has altitude-reporting equipment, the altitude of intruding aircraft relative to the TCAS equipped aircraft. TA's without altitude information may also be provided from non-altitude reporting transponder-equipped intruders. TCAS I equipment provides TA's that only assist the pilot in visually detecting an intruder aircraft. The second class of advisory, the "resolution advisory" (RA), indicates

the vertical direction and rate that must be achieved by an aircraft in order to prevent insufficient separation. When an RA occurs, the pilot flying should respond by direct attention to RA displays and should maneuver as indicated unless doing so would jeopardize the safe operation of the flight or unless the flight crew has definitive visual acquisition of the aircraft causing the RA. TCAS II equipment provides both traffic and resolution advisories only in the vertical plane.

The Rule

This rule accomplishes two things. First, it authorizes deviations from an ATC clearance when responding to a TCAS RA. Secondly, it requires pilots to notify ATC as soon as possible if they deviate from a clearance in response to a TCAS RA. This action codifies existing policies and practices that were initiated during the TCAS implementation period.

Discussion of Comments

Interested persons were invited to participate in this rulemaking action by submitting written data, views, or arguments. All comments received during the comment period were considered before making a determination regarding this final rule. The following is a discussion of the comments received.

Five comments were received in response to the NPRM. Of this number, three comments were received from associations and two from individuals. Most commenters supported amending FAR 91.123(a); however, three commenters opposed amending FAR 91.123(c).

I. Compliance With ATC Clearances

Most commenters support this amendment which allows flight crews to deviate from an air traffic control clearance in response to a TCAS RA. The Air Transport Association of America (ATA) and the Air Line Pilots Association (ALPA) stated that the proposal is fully consistent with the ATA petition referenced in the Notice. ATA believes this action will remove a potential obstacle to the full use of TCAS by allowing flight crews to follow a TCAS RA without pausing to determine if the RA maneuver would require the crew to declare an emergency. Another commenter states that he believes safety would be improved with this amendment, and supports it. The National Air Traffic Controllers Association (NATCA) did not comment specifically on this proposed change, but offers general comments stating they do not believe the air traffic system is as safe today as it was prior to the introduction of TCAS.

On December 30, 1987, the President of the United States signed Public Law 100–223 which, among other provisions, amended the FAA Act of 1958, Section 601, by adding a new paragraph (f) entitled "Collision Avoidance Systems." This section requires TCAS II on "each civil aircraft of more than 30 seats and which is used to provide air transportation of passengers, including intrastate air transportation of passengers." The amendment does not provide for the exception of any class of civil operation or operator, U.S. or foreign, from the basic rule. Consequently, the FAA promulgated numerous regulations (several of which have been referenced earlier in this document) pertaining to TCAS. In addition, the TTP, along with the Separation Assurance Task Force (SATF), were established to investigate and resolve TCAS related problems in the NAS which are discovered during implementation. Participants in this program include the FAA, ATA, Regional Airline Association, ALPA, Allied Pilots Association, NATCA, Transport Canada, TCAS equipment manufacturers and the major, national and regional air carriers.

The FAA disagrees with NATCA's view that TCAS has compromised safety. Since the introduction of TCAS into the NAS, both air traffic controllers and flight crews have adjusted their operating procedures. With the assistance and cooperation of flight crews and air traffic controllers, surveys have been collected and volumes of data analyzed. As issues surface, the TTP provides guidance for timely resolution that has resulted in better training for both pilots and controllers, the issuance of two advisory circulars addressing the use of TCAS, amendments to the controllers handbook and the Airman's Information Manual (AIM), and updating the TCAS software in order to eliminate false and nuisance RA's.

At the second annual International TCAS Conference held in Reston, Virginia in September, 1993, TCAS was lauded by many flight crews as a safety enhancing cockpit device.

For example, TCAS was credited by the captain of a major air carrier for saving the lives of nearly 700 people in two B747 aircraft traveling over the Pacific Ocean.

The TCAS Industry Alert Bulletin #5, issued February 18, 1994, states that during the prior two years, 16 encounters had occurred wherein TCAS II displayed unnecessary resolution advisories that directed pilots to cross through each other's altitudes. The RA's were unnecessary because the aircraft were safely separated by the ATC system. In each of these encounters, the TCAS logic detected the high vertical closure rate of the two aircraft and predicted the close proximity of the aircraft without knowing that the aircraft intended to level off 1000 feet apart in altitude.

In order to eliminate these unnecessary RA's, a new version of the TCAS logic (Version 6.04A) was created and installation required by 12/31/94. This logic will not generate altitude-crossing RAs when aircraft level off within 1000 feet vertically of one another. None of the 16 encounters previously mentioned would have resulted in altitude-crossing RAs with the Version 6.04A logic installed.

II. ATC Notification

ATA and ALPA oppose this proposal which requires flight crews to inform ATC as soon as possible when deviating from an ATC clearance in response to a TCAS RA. ALPA states they do not oppose notifying ATC of any deviation caused by responding to a TCAS RA; however, they believe the proposal may imply a sense of urgency for pilots to advise ATC of a deviation at a time when complete attention must be focused on identifying the intruder and responding to the RA. ALPA states this sense of urgency may also be prompted by a concern over possible enforcement action should the crew neglect to report the event due to a directed frequency change or some other unanticipated event. ATA comments that the phrase "as soon as possible" implies that notification to ATC of a deviation should take place prior to executing the maneuver. ATA suggests the word "practical" be used in lieu of "possible" which would be consistent with the AIM.

The FAA does not agree with replacing the word "possible" with "practical". The word "possible" does not mean that the notification has to take place before the pilot has executed the appropriate maneuver. "Possible" does, however, contain a greater urgency than the word "practical," and would require notification to ATC of the deviation as soon as the pilot maneuvers the aircraft to a safe operating environment. The language is consistent with current wording contained in the regulation that requires a flight crew who, in an emergency, deviates from an ATC clearance to notify ATC as soon as possible. If a pilot deviates from an ATC clearance, the controller must be given timely notification of that deviation so that appropriate instructions and/or

advisories can be issued to ensure a safe, orderly, and expeditious flow of traffic. By advising ATC as soon as possible that an RA has been received, the controller can evaluate the situation, determine the most appropriate and safe course of action, and issue alternate instructions if necessary.

ALPA states that the requirement to report a deviation from an ATC clearance as a result of an RA is stated in the Airman's Information Manual (AIM), FAA Advisory Circular 120–55, and each TCAS equipped aircraft flight operations manual. Consequently, the commenter believes this proposal is redundant and unnecessary.

The FAA acknowledges there are several FAA publications which explain and encourage pilots to communicate with ATC when deviating from a clearance upon receipt of a RA. However, the FAA has determined that safety within the NAS can only be maintained if pilots are required to advise controllers when a deviation from an ATC clearance has occurred as a result of an RA.

NATCA opposes this rule change due to concerns for the safety of persons operating in the NAS. However, NATCA does not provide specific instances of how or where safety is compromised, but merely reiterates their ongoing concern with the TCAS program.

The FAA has determined that pilot notification of a deviation from a clearance due to a TCAS RA enhances safety in the NAS. Air traffic controllers base their control and traffic management decisions on the expectation that pilots will comply with ATC-assigned routes, altitudes, and other clearances. If a pilot deviates from an ATC clearance, the controller must be given timely notification of that deviation so that appropriate instructions and/or advisories can be issued to ensure a safe, orderly, and expeditious flow of traffic. By advising ATC as soon as possible that an RA has been received, the controller can evaluate the situation, determine the most appropriate and safe course of action, and issue alternate instructions if necessary.

III. Resolution Advisory Maneuver—An Emergency?

One commenter contends that any deviation from an ATC clearance is an emergency; therefore, this rule change is not needed. The commenter believes the cause of the deviation need not be an emergency, but the mere fact that an aircraft is not following an ATC clearance should be considered an emergency. The commenter suggested the phrase "in an emergency" be deleted from the rule; thereby, any time an aircraft deviates from an ATC clearance, regardless of the reason, ATC will be notified.

The FAA disagrees that an RA maneuver is an emergency action. TCAS is designed to serve as a backup (safety net) to visual collision avoidance, application of "right of way rules", and air traffic separation services. Since its inception, TCAS has been considered by the FAA and industry to be a supplement to the ATC system that provides flight guidance to ensure adequate separation from other aircraft. Additionally, although the suggestion to remove the word "emergency" from the language of the regulations is outside the scope of this rulemaking, the FAA will consider the merits of the comment for possible future rulemaking.

Regulatory Evaluation Summary

Executive Order 12866 established the requirement that, within the extent permitted by law, a Federal regulatory action may be undertaken only if the potential benefits to society for the regulation outweigh the potential costs to society. In response to this requirement, and in accordance with Department of Transportation policies and procedures, the FAA has estimated the anticipated benefits and costs of this rulemaking action. The results are stated in this section. The FAA has determined that this rule change is not a "significant rulemaking action," as defined by Executive Order 12866 (Regulatory Planning and Review).

The FAA has determined that this rule will be cost-beneficial because it imposes no costs and would promote air safety. There will not be any changes in notification or reporting requirements for deviations from ATC clearances that are necessary to avoid potential collision hazards. This action codifies a previously announced policy that pilots who deviate from their assigned altitudes in response to a TCAS RA will provide timely notice, as soon as possible, to air traffic control. Such non-written, voice notification will give controllers an opportunity to resolve any conflicts resulting from a TCAS II-equipped aircraft being at other than the assigned altitude.

International Trade Impact Statement

This action will not impose a competitive disadvantage to either U.S. air carriers doing business abroad or foreign air carriers doing business in the United States. This assessment is based on the fact that this rule will not impose additional costs on either U.S. or foreign air carriers.

Regulatory Flexibility Determination

In accordance with the Regulatory Flexibility Act of 1980, the FAA has determined that this action will not have a significant economic impact, positive or negative, on a substantial number of small entities. This assessment is based on the fact action will not impose any additional cost on aircraft operators.

Paperwork Reduction Act

There are no requirements for information collection associated with this action that would require approval from the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Federalism Implications

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with the U.S. obligations under the Convention on International Civil Aviation (ICAO), it is FAA policy to comply with ICAO Standards and Recommended Practices (SARP) to the maximum extent practicable. The FAA has determined that this action complies with the ICAO SARP.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not a "significant regulatory action" under Executive Order 12866. This regulation is not considered significant under DOT Order 2100.5, Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Aviation safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 91 of the Federal Aviation Regulations (14 CFR part 91) as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. app. 1301, 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125, 2157, 2158; 49 U.S.C. 106(g); articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902.

2. Section 91.123 is amended by revising paragraphs (a) and (c) to read as follows:

§ 91.123 Compliance with ATC clearances and instructions.

(a) When an ATC clearance has been obtained, no pilot in command may deviate from that clearance unless an amended clearance is obtained, an emergency exists, or the deviation is in response to a traffic alert and collision avoidance system resolution advisory. However, except in Class A airspace, a pilot may cancel an IFR flight plan if the operation is being conducted in VFR weather conditions. When a pilot is uncertain of an ATC clearance, that pilot shall immediately request clarification from ATC.

* * * * *

(c) Each pilot in command who, in an emergency, or in response to a traffic alert and collision avoidance system resolution advisory, deviates from an ATC clearance or instruction shall notify ATC of that deviation as soon as possible.

* * * * *

Issued in Washington, D.C. on September 13, 1995.

David R. Hinson,

Administrator.

[FR Doc. 95–24170 Filed 9–28–95; 8:45 am]

BILLING CODE 4910-13-M

federal register

Friday
September 29, 1995

Part IV

Environmental Protection Agency

40 CFR Part 170

Pesticide Worker Protection Standards; Language and Size Requirement for Warning Signs; Decontamination Requirements; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250107; FRL–4969–4]

Pesticide Worker Protection Standard; Language and Size Requirement for Warning Signs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to revise the Worker Protection Standard (WPS) to allow the substitution of an alternate language for the Spanish portion of the warning sign and to allow the use of smaller warning signs in greenhouses and nurseries where the use of the standard size sign may interfere with operations or the clear identification of treated areas. These changes will allow the flexibility to tailor the sign to accommodate a workforce whose predominant language is neither English nor Spanish. In addition, the changes will modify the rule's existing criterion for allowing smaller signs in nurseries and greenhouses and will facilitate posting of treated areas.

DATES: Written comments, identified by the docket control number OPP–250107, must be received on or before November 13,1995.

ADDRESSES: By mail, submit written comments to: Public Response Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPP–250107. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit V. of this document. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI.

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: John MacDonald or Linda Strauss, Certification and Training, and Occupational Safety Branch (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Telephone: 703–305–7666, e-mail: strauss.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This proposed rule is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. sections 136-136y.

II. Background

In 1992 EPA revised the Worker Protection Standard (40 CFR part 170) (57 FR 38102, August 21, 1992) which is intended to protect agricultural workers and handlers from risks associated with agricultural pesticides. The 1992 WPS expanded the scope of the original WPS to include not only workers performing hand labor operations in fields treated with pesticides, but also workers in or on farms, forests, nurseries, and greenhouses, as well as pesticides handlers who mix, load, apply, or otherwise handle pesticides for use at these locations in the production of agricultural commodities. The WPS contains requirements for training, notification of pesticide applications, use of personal protective equipment, restricted entry intervals, decontamination, and emergency medical assistance.

This proposed WPS rule amendment is one of a series of Agency actions in response to concerns raised by stakeholders affected by the rule. In addition to this proposed amendment, elsewhere in this issue of the **Federal Register**, EPA is issuing another proposal soliciting public comment regarding modifying the requirements for decontamination supplies for workers when low toxicity pesticides are used.

III. Current Requirements and Proposal for Bilingual Signs

A. Current Requirements

Section 170.120 of the WPS requires that signs warning of pesticide-treated areas be in both English and Spanish. The words "DANGER" and "PELIGRO," plus "PESTICIDES" and "PESTICIDAS," shall be at the top of the sign, and the words "KEEP OUT" and "NO ENTRE" shall be at the bottom of the sign. All letters must be clearly legible and visible from all usual points of worker entry into the treated area. Also, the regulation allows additional information to be placed on the warning sign if the information does not detract from the appearance of the sign or change the meaning of the required information.

B. Reasons for this Proposal

In the preamble to the final regulation, EPA discussed its rationale for adoption of Spanish as the second language on the warning sign. EPA realized that non-English readers were not solely Spanish readers. However, EPA believed imposition of a requirement to identify all languages spoken and development of alternative signs would be an unnecessary burden on agricultural employers.

Since publication of the regulation, EPA has received a number of comments on the English/Spanish warning signs. These commenters are concerned about workers who do not read English or Spanish and have requested that EPA allow a grower to eliminate or replace the Spanish portion of the warning sign based upon the composition of the workforce. They stated that, in some parts of the country, Spanish-reading workers are not common and the requirement to include Spanish on the sign should be limited to those areas where a significant number of Spanish-reading workers are employed.

Farmworker representatives have commented that it should be mandatory to add to the warning sign all languages used by workers at the establishment.

C. Proposal to Modify the Second Language Requirements on the Sign

In response to the above comments, EPA believes that allowing growers the option to replace the Spanish portion of the warning sign with an appropriate language that is more representative of the language read by the workforce will promote worker understanding of the information on the sign and enhance

worker safety. Presently, EPA believes that the number of farmworkers who read a language other than English or Spanish is approximately 5 percent of the United States farmworker population. EPA believes this represents a large enough population to warrant this proposal.

EPA considered the farmworker proposal that warning signs contain all languages spoken by workers on an establishment. While the Agency agrees that it would be ideal to have a warning sign(s) capable of being read by all workers, EPA believes that a requirement for multiple signs using different languages would be difficult to administer and would place an unnecessary burden on growers. Specifically, such a proposal could require frequent review of the languages spoken by the workforce and frequent sign modifications. The sign also could become cluttered and be less likely to be read and understood by the workers. Further, under the regulation, the WPS-required training for workers must be presented in a manner that the workers can understand (such as through a translator) and must convey the purpose and posting of warning signs. For these reasons, EPA is not proposing adoption of a requirement that warning signs contain all languages read by workers on an establishment.

EPA is proposing the following for consideration and comment:

EPA proposes to allow growers the option of replacing the Spanish portion of the warning sign with the written language that is most read by the portion of the workforce that does not read English. If finalized, this would be an option for growers and would not preclude the continued use of the English/Spanish sign, which would remain acceptable. If the grower chooses this approach, the second language must represent a language read by a majority of workers who do not read English. The English portion of the sign must not be omitted. Workers capable of reading both English and other language(s) should be considered English readers.

Under this proposal, growers who wish to replace the Spanish portion of the sign may accomplish this in several ways, including: (1) Covering the Spanish portion with a sticker displaying the appropriate second language, (2) writing in the substitute language on a sign produced with a blank portion, or (3) using originally produced warning signs with a second language other than Spanish. This proposal would not affect other format and design requirements of the WPS, including the requirement that signs must be visible, legible and weatherproof, during the time they are posted.

The proposed text that would give growers the option of replacing the Spanish portion of the sign with a language other than Spanish is located in the regulatory text of this document.

D. Solicitation of Comments on Bilingual Signs

EPA is interested in receiving comments and information on the proposed option. Specifically, comments are requested on:

1. What are the advantages and disadvantages of changing the current warning sign provisions of the WPS to allow for the use of a non-Spanish second language?

2. What are the advantages and disadvantages of requiring all languages read by workers to be included on the warning sign?

3. If growers wish to replace the Spanish portion of the sign with another language, how practical and effective are the proposed options? Are there methods other than those identified by EPA, which would be more effective in facilitating the proposed language substitution?

4. If growers choose to use a non-Spanish second language, how should growers identify the non-Spanish language which is read by a majority of workers who do not read English?

5. What are the costs, availability, production time, and general feasibility of producing signs with a second language other than Spanish under the provisions of the proposed regulation?

IV. Current Sign Requirements and Proposal for Smaller Signs

A. Current Requirements

WPS § 170.120(c)(2) specifies that warning signs must be 14" X 16" (standard) in size, and the letters shall be at least 1 inch in height, unless a smaller sign and smaller letters are necessary "because the treated area is too small to accommodate a sign of this size."

Also, the signs must remain visible and legible during the time they are posted. On agricultural establishments, the signs must be visible from all usual points of worker entry to the treated area, or if there are no usual points of entry, signs must be posted in the corners of the treated area or in any other location affording maximum visibility. On farms and in forests and nurseries, usual points of entry include each access road, each border with any labor camp adjacent to the treated area, and each footpath and other walking route that enters the treated area. In greenhouses, usual points of entry include each aisle or other walking route that enters the treated area.

B. Reasons for this Proposal

In the proposal of the 1992 regulation, the Agency did not propose a size requirement for warning signs, however signs were to be "clearly legible." However, in the response to comments on the proposal, the Agency explained that the final rule would specify a sign size because that would promote the use of generic signs and eliminate any ambiguity as to what is "clearly legible." The document also states that EPA would require 14" X 16" size signs, except where that size would be impractical, such as for posting individual potted plants and where numerous crops are grown in relatively small areas. In the final rule, however, use of the smaller sign was restricted only to areas where the size of the treated area would not accommodate a 14" X 16" size sign.

Since publication of the 1992 rule, the American Association of Nurserymen (AAN) has commented that use of smaller signs should not be limited to situations where the treated area is too small to accommodate a standard size sign, as the current rule requires. The AAN asserts that use of smaller signs should be an option in a wide variety of greenhouse and nursery production settings. The AAN reports that, as growers have tried to implement the current WPS sign requirements, the 14" X 16" (standard) size signs have been impractical and burdensome in greenhouses and nurseries, given the intensity and frequency of labor activity in these smaller-scale operations and their reliance on and requirement by WPS for posting. In greenhouses, all pesticide applications must be posted and oral notification to workers is required as well for some products. Although oral notification is an option in nurseries in most circumstances, posting is generally preferred by the industry because it would be difficult for workers to remember the locations of all the treated areas.

The AAN provides several reasons why the 14" X 16" signs interfere with operations and the clear identification of treated areas in greenhouse and nursery settings. First, they state that, as compared to farms and forests, the use of the standard size signs can result in crowding and confusion about the exact boundary of each of the treated areas because many signs can be required in a small area where there are different treatment regimes which are in close proximity. Second, installing, removing, and storing the standard size signs and

the physical supports, such as metal or wooden poles, presents added costs and difficulties for the industry. Third, the physical supports needed for the 14" X 16" inch signs can prevent operation of the standard machinery and equipment used in these operations and can obstruct overhead irrigation spray equipment, including the irrigation water itself.

The industry believes that the use of smaller signs in greenhouses and nurseries will facilitate posting and worker awareness of areas under the restricted entry interval (REI). In the AAN's view, allowing the use of smaller signs will eliminate the ambiguity and resulting inconsistencies in interpretation between growers and states as to when small signs can be used. The AAN also believes that smaller signs can be equally visible and legible in the small-scale of greenhouses and nurseries, as compared to larger signs on farms and forests.

Some state agencies have requested EPA's review of posting plans to determine whether they are consistent with current rule requirements. For example, the Oregon Association of Nurserymen (OAN) organized a task force with Oregon OSHA and EPA Region 10 to develop a system of posting beds and fields in greenhouses and nurseries. The Oregon plan contained the following conditions: For greenhouse and nursery beds, 5" X 5" signs would be placed at the beds' corners and every 25 feet along the beds bordering walkways that serve as usual worker entry points. For nursery fields, each field would be posted with a 7" X 8" sign at its corners and every 50 feet along usual worker access routes bordering the field, such as walkways and access roads.

C. Proposal to Allow Smaller Signs in Greenhouses and Nurseries

The Agency believes that use of the 14" X 16" signs may interfere with operations or the clear identification of treated areas in greenhouses and nurseries, particularly in cases where there may be different treatment regimes in close proximity that require separate posting. EPA does not envision that using the standard-size signs would interfere with operations or the identification of treated areas on sod farms, tree nurseries, and nurseries where large fields of nursery stock receive uniform pesticide treatments.

EPA also believes that a minimum-size for smaller signs should be set because such a limitation may be necessary to meet the rule requirement that signs be both visible and legible from usual points of entry to the treated area. EPA considered proposing that signs be posted at specific distances, such as the Oregon plan discussed in Unit IV.B. of this preamble. However, although spacing signs at specific distances could be useful in clearly identifying the treated areas, the Agency is not proposing this requirement. The Agency is concerned that a single specific distance between signs may not be appropriate for all nursery and greenhouse situations.

EPA is proposing the following for consideration and comment:

In addition to allowing the use of smaller signs when the treated area is too small to accommodate the 14" X 16" sign, EPA proposes to allow smaller signs in greenhouses and nurseries when use of a larger sign may interfere with operations or the clear identification of treated areas. This additional option would not preclude the continued use of a small sign based on spatial limitations, as presently allowed. Also, a minimum size would be set for smaller signs. This minimum size requirement would apply to all uses of small signs, including uses already allowed by the WPS. Further, signs would have to meet all other posting requirements of the rule, including that they be visible and legible during the time they are posted.

The proposed text that would incorporate a performance standard that considers interference with operations or the clear identification of treated areas and a minimum sign size for greenhouses and nurseries is located in the regulatory text of this document.

D. Solicitation of Comments

EPA is interested in receiving comments and information on the proposed option. Specifically, comments are requested on:

1. What are the advantages and disadvantages of amending the WPS in the manner described by this proposal?

2. What are the advantages and disadvantages of proposing a minimum-size sign?

3. What is an appropriate minimum-size requirement for smaller signs? Please provide any available data on the relationship between sign size and worker recognition that entry to the treated area is prohibited.

4. Should EPA require a maximum distance requirement between signs when smaller signs are used (e.g., the Oregon Proposal discussed in Unit IV.B. of this preamble)? If so, what should the distance be?

5. Would commenters prefer a more precise and objective standard, such as permitting the use of a smaller size sign on a smaller plot, e.g., ½ acre or less?

6. Should the grower be permitted to handwrite in a substitute language or should a manufacturered sign or sticker be required?

V. Public Docket

A record has been established for this rulemaking under docket number "OPP–250107 " (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for the rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

VI. Statutory Requirements

As required by FIFRA section 25(a), this proposed rule was provided to the Secretary of Agriculture; the Committee on Agriculture of the House Representatives; and the Committee on Agriculture, Nutrition, and Forestry of the Senate for review. The FIFRA Scientific Advisory Panel waived its review.

VII. Regulatory Assessment Requirements

A. Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this is not a "significant regulatory action." OMB has waived its review.

Both the proposals to modify the second language requirements on the sign and to allow smaller signs in greenhouses and nurseries are only optional changes to the requirements of the current WPS. This proposed rule, if finalized, would provide non-mandatory options and, therefore, does not increase costs. In the event that either option is chosen, the second language change would be a negligible cost, and the smaller signs change would constitute regulatory relief.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, the Agency must conduct a small business analysis to determine whether a substantial number of small entities would be significantly affected by the rule. However, this proposed rule potentially reduces burden and would not require actions which would increase costs. I therefore certify that this proposal does not require a separate analysis under the Regulatory Flexibility Act as it would not have an adverse impact on any small entity.

C. Paperwork Reduction Act

This proposed rule does not have any information collection requirements subject to the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

D. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, EPA has assessed the effects of this regulatory action on State, local, or tribal governments, and the private sector. This action does not result in the expenditure by State, local, and tribal governments in the aggregate or by the private sector of $100 million or more in any one year.

List of Subjects in Part 170

Environmental protection, Intergovernmental relations, Occupational safety and health, Pesticides and pests.

Dated: September 25, 1995.

Carol M. Browner,

Administrator.

Therefore, 40 CFR part 170 is proposed to be amended as follows:

Part 170—[Amended]

1. The authority citation for part 170 would continue to read as follows:

Authority: 7 U.S.C. 136w.

2. In § 170.120, by revising paragraph (c)(2), redesignating existing paragraphs (c)(3) through (c)(7) as (c)(4) through (c)(8) respectively, and adding a new paragraph (c)(3) to read as follows:

§ 170.120 Notice of applications.

* * * * *

(c) * * *

(2) On all use sites, the sign shall be at least 14 inches by 16 inches in size, and the letters shall be at least 1 inch in height unless a smaller sign and smaller letters are necessary, because the treated area is too small to accommodate a sign of this size. In nurseries and greenhouses only, a smaller sign may be used when a 14 inches by 16 inches sign may interfere with operations or the clear identification of the treated area. If a smaller sign is used, under any of the conditions above, it must be at least X inches x Y inches and meet the requirements of paragraph (c)(1) of this section.

(3) The grower may replace the Spanish portion of the warning sign with another non-English language which is read by a majority of workers who do not read English. The replacement sign must be in the same format as the original sign and be visible, legible, and weatherproof.

* * * * *

[FR Doc. 95–24212 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250108; FRL–4969–5]

Worker Protection Standard; Decontamination Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend the Worker Protection Standard (WPS) for agricultural pesticides by modifying the current requirements for decontamination sites for workers. EPA is proposing to shorten the time that decontamination sites are required when certain pesticides are used; all other decontamination provisions are unaffected by this proposal. The objective of the proposed change is to provide flexibility and encourage the use of low-toxicity pesticides, while ensuring that there is no increase in worker risk. EPA is also clarifying existing decontamination requirements so that agricultural employers will better understand their responsibilities under this WPS provision.

DATES: Written comments, data, or evidence must be identified by docket number and should be submitted on or before November 13, 1995.

ADDRESSES: Submit written comments in triplicate to: By mail: Program Resources Section, Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP–250108." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VIII. of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Joshua First or Allie Fields, Office of Pesticide Programs, Field Operations Division, Certification, Training, and Occupational Safety Branch (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. By telephone: (703) 305–7437 and (703) 305–5391, respectively. By e-mail: first.joshua@epamail.epa.gov or fields.allie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This proposal is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136w(a).

II. Background of the Worker Protection Standard

In 1992, EPA revised the Worker Protection Standard (40 CFR part 170) (57 FR 38102, August 21, 1992) which is intended to protect agricultural workers from risks associated with agricultural pesticides. The 1992 WPS expanded the scope of the original WPS to include not only workers performing hand labor operations in fields treated with pesticides, but also workers in or on farms, forests, nurseries, and greenhouses. It also included pesticide handlers who mix, load, apply, or otherwise handle pesticides for use at these locations in the production of agricultural commodities. The WPS contains other requirements for training, notification of pesticide applications, use of personal protective equipment, restricted entry intervals, decontamination, and emergency medical assistance.

This proposed WPS amendment is one of a series of Agency actions in response to concerns raised by persons affected by the final WPS rule since its publication in August 1992. In addition to this proposed amendment, EPA will also be publishing a notice soliciting public comment about possible modifications to the requirements for the WPS warning sign.

III. Current Worker Protection Standard Decontamination Requirement

Section 170.150 of the WPS requires that workers be provided with a decontamination site (water, soap, disposable towels) for washing off pesticide residues whenever a worker performs any task in an area where, within the last 30 days, a pesticide has been applied or a restricted-entry interval has been in effect, and the worker contacts anything that has been treated with the pesticide. Decontamination sites must consist of soap and single-use towels sufficient to meet workers' needs and enough water for routine washing and emergency eye flushing. The sites must be reasonably accessible to workers and not more than ¼ mile from workers, or at the nearest place of vehicular access.

The water must be of a quality and temperature that will not cause injury when it contacts eyes, skin, or when it is ingested. Water cannot be stored in tanks used for mixing pesticides, unless the tank is equipped with functioning valves or mechanisms that prevent pesticides from entering the tank. EPA recommends that at least 1 gallon of water be available per worker for general washing. When workers are engaged in early-entry tasks in areas treated with pesticides that require protective eye wear, at least 1 pint of water must be immediately available to each worker for emergency eye flushing; this water must be carried by the worker, on the vehicle which the worker is using, or must be otherwise immediately available. At remote work sites, workers may use clean water from streams, springs, lakes, or other sources that are more accessible than the water at the decontamination site located at the nearest point of vehicular access.

Decontamination sites shall not be in areas being treated with pesticides. In general, decontamination sites shall not be in areas under a restricted entry interval (REI), unless workers are engaged in permitted early-entry tasks and are contacting treated surfaces. For workers who have performed early-entry tasks, employers must provide a decontamination site at the place where the workers remove their protective equipment with a sufficient amount of water to wash thoroughly. These requirements are discussed more fully in the next unit.

IV. Discussion of Comments Received and Clarification of Requirements

The Agency has received comments and requests from stakeholders that changes to the WPS decontamination requirement be made. EPA has held meetings with agricultural industry representatives and farmworker representatives to discuss their concerns about potential changes in the decontamination requirement. EPA has also received written comments on the subject. Concerns expressed by stakeholders in both correspondence and in meetings are reviewed below.

A. Stakeholder Concerns

In a July 8, 1994, petition for rulemaking, the National Association of State Departments of Agriculture (NASDA) requested that EPA narrow WPS decontamination supply requirements to periods which EPA has previously identified as posing potential contact with residues. In particular, NASDA asked for decontamination supplies to be required only during REIs or "immediately following the pesticide application." NASDA stated that the duration of the 30–day requirement is "unnecessary and wasteful" because decontamination supplies must be provided even when there is no apparent risk.

NASDA stated that pesticide dusts and mists settle after a pesticide application, which minimizes the opportunity for workers to contact the pesticide residues. Moreover, NASDA argued that, unless EPA has a specific health-based concern about a particular pesticide, which should be reflected in the pesticide's REIs, decontamination supplies should not be required beyond a pesticide's REI because foliar residues should be largely dissipated by the time the REI expires; NASDA stated that risks are relatively low when foliar residues are mostly dissipated. NASDA also argued that it is impractical to place a decontamination site where potential risks from residues are arguably low, instead of in areas where potential risks are known to be high.

The Farm Bureau, the Cotton Council, and other stakeholders have stated in correspondence and in meetings with EPA that the requirement is unduly burdensome because there is little or no worker risk from what pesticide residues remain after the respective REIs expire. These commenters believe that the sites would be better utilized in more recently treated areas. Industry stakeholders comments have focused on the risks associated with pesticides' acute toxicity.

Some agricultural industry stakeholders stated that putting decontamination sites in areas of arguably low risk, such as areas where the REIs have expired, results in the inefficient use of transport equipment. For example, on some cotton farms work crews are large, and decontamination supplies and facilities are transported in trailers. Commenters have stated that the trailers are expensive, are difficult to move around, and that purchasing several of them, instead of moving one trailer to the area most in need of a decontamination site, is an added burden and an inefficient use of equipment. Some commenters have stated that other vehicles, such as pickup trucks, are also not efficiently used, because large water tanks are kept in the truck's bed and the truck must remain with the workers.

On the other hand, stakeholders representing farmworker concerns have taken issue with the proposed changes to the decontamination requirement. For example, the Farmworker Justice Fund and the American Farmworker Opportunities Program have requested that EPA not make any changes to the requirement. They have stated that a change to the requirement may be perceived as a weakening of the requirement and might promote less compliance. Stakeholders representing farmworkers have said that implementing any of the possible changes mentioned in this proposal will weaken the requirement. They have said that these changes will result in increased risks to farmworkers, because the number of opportunities for farmworkers to wash themselves during working hours will decrease. These commenters have also stated that the requirement is easy to meet because of its low costs and, therefore, there is no basis for changing it.

B. Clarification of Current Worker Protection Standard Decontamination Requirement

EPA has received comments and requests to provide clarification about the WPS decontamination requirement. The Agency has realized from these questions that the requirement is not completely understood by agricultural employers. In response, EPA is providing the following information.

1. *When a decontamination site must be provided and when it is not required.* A decontamination site is only required whenever workers perform tasks resulting in contact with pesticide-treated surfaces in an area that has been treated with pesticides within the last 30 days, or an REI has been in effect in the area within the last 30 days. The decontamination site is not required to be left in or near a pesticide-treated area when workers are not present, nor is a decontamination site required to be left in or near a pesticide-treated area in the event that it might be needed at some future time.

Decontamination sites are not required when there are no workers present in the treated area. Decontamination sites are not required when workers are engaged in work that does not result in contact with pesticide-treated surfaces. For example, a decontamination site is not required for a worker who walks into a treated field to place a flag without handling the crop or otherwise contacting treated surfaces. Likewise, a decontamination site is not required for workers who enter fields where the treated surface(s) has been completely removed.

The removal of treated surfaces can occur during the harvest of some crops. However, not all harvesting will result in the removal of all treated surfaces. The harvest of some crops is accomplished in stages, such as melons. Melons ripen throughout the growing season and it is likely that many melons remaining in the field will have pesticides residues on them that are less than 30 days old, due to periodic retreatment. With other crops, such as orchard fruits, harvesting cannot completely remove all treated surfaces, which include tree leaves and branches. However, the remains of some field crops are plowed under after harvest. In that case, there would be no treated surfaces remaining.

2. *How to transport and provide a decontamination site.* Employers have expressed concern about ways to transport and provide decontamination sites, particularly the water. Employers have stated that providing large containers of water limits the use of the transport vehicle, which is often left stationary with the supplies in or on it. In response, the Agency would like to emphasize that the method of providing decontamination supplies is at the discretion of the employer. Examples of placement of the supplies can include in a shed, trailer, pickup truck, carboy, or enclosed container.

Decontamination water must be sufficient for workers' needs. If running water is not immediately available, EPA recommends that at least 1 gallon of water be provided for each worker. The water need not necessarily be in a single large container that would be kept in or on a vehicle. It can be provided in smaller containers, such as large and medium coolers, or even 1 gallon jugs. Whenever possible, EPA recommends that employers provide larger water containers. Small ones, such as 1 gallon jugs, are more easily contaminated because they are handled more, and more easily moved and knocked over than larger containers.

3. *Duration of decontamination sites.* The decontamination requirement does not require that a permanent supply site be built, such as a shed. The requirement will be satisfied so long as the decontamination supplies are reasonably accessible to workers (within ¼ mile or at the nearest point of vehicular access), and the water is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed. Water can be kept at acceptable temperatures any number of ways, the most common being shade, although coolers are also common.

4. *Decontamination sites in areas under an REI.* A decontamination site can be placed in a pesticide-treated area, including an area under an REI. The decontamination site can be in an area under an REI only if intended for workers engaged in early entry tasks in that area.

In the case of workers engaged in early entry work in an area under an REI, it is the employer's discretion on where to provide the decontamination site. The site can be placed at the edge of the area under the REI, where there is less opportunity for it to contact pesticide residues. However, the employer may also wish to place the site in the area under the REI, where it would be closer to the workers. The site must be within ¼ mile of the work area or at the nearest point of vehicular access.

Workers entering areas under an REI in a vehicle, such as a truck or tractor, may bring decontamination supplies with them in the vehicle, so long as the supplies will not contact pesticides or their residues. One way of ensuring that the decontamination supplies do not contact pesticides or their residues is to store them in an enclosed container. An enclosed container can be a closable plastic bag, a hard plastic box with a sealable lid, or other similar container.

When decontamination sites are in a treated area, and there is no REI in effect, enclosed containers or other measures to ensure that the decontamination supplies do not contact pesticide residues are not required, although EPA recommends that they be used.

5. *Federal and State Occupational Safety and Health Administration (OSHA) Requirements.* The OSHA Field Sanitation Standard (29 CFR 1928.110) sets sanitation requirements similar to those promulgated by EPA for worker decontamination. Several states, such as Washington, California, and Oregon, have requirements similar to or stricter than the OSHA requirements. These states appear to be the exception, however. The vast majority of states do not have requirements similar to OSHA's. To the extent that the provision of state and OSHA-required facilities coincide with WPS decontamination requirements, it is acceptable to use the state or OSHA-required facility. Therefore, employers meeting the OSHA or state requirement will not incur additional cost or burden in complying with the WPS decontamination requirement.

The OSHA standard requires agricultural employers who employ more than 10 workers at a given time to provide to those workers, among other things, hand washing facilities, including potable water, when workers are engaged in hand labor operations in the production of crops in the field. OSHA's Standard differs significantly from the WPS requirement in the following ways: It applies only to larger establishments; it applies to all hand labor (not work resulting in limited contact with pesticide-treated surfaces); and it applies only to more than 3 hours of labor. The WPS decontamination requirements apply to any labor resulting in any contact with treated surfaces.

6. *Length of time that decontamination sites are required after the REI.* Decontamination sites are required for 30 days after a pesticide has been applied or after a REI has expired. All but a few pesticides have at least 4–hour REIs; therefore, it is highly likely that decontamination sites will be required for 30 days in almost all situations where pesticides are used. If the employer wishes to do so, decontamination sites can be provided to employees for longer than 30 days.

Should the proposed change in this proposed rule be implemented, the period for which decontamination sites would be required for certain low-toxicity pesticides will be shortened from 30 days to between 1 and 15 days. The interval will be determined after the 45–day comment period on this proposed rule.

V. Options Considered and EPA's Proposal

EPA considered several possible changes to the decontamination requirement, and is proposing to change the length of time decontamination supplies are required for pesticide-treated areas that have been under a 4–hour REI, e.g., end-use products containing active ingredients that have passed EPA's low toxicity screening criteria. The Agency believes that this proposed change will provide regulatory flexibility and promote the use of low-toxicity pesticides, while ensuring that worker risk is not increased. Although the Agency is not proposing any of the

other changes it considered at this time, EPA desires comments on these possible changes. Should EPA receive comments on these options that the Agency finds to be compelling, it is possible that one or more of the options could be implemented.

A. Options EPA Considered

1. *Eliminating the requirement of a decontamination site after crops are harvested.* EPA considered the option of eliminating the decontamination requirement after certain crops are harvested. EPA is not proposing this option for the following reasons.

First, tasks which occur after harvesting can result in high exposures to pesticide-treated surfaces and, therefore, high exposures to pesticide residues if residues remain. Implementing this option would contradict EPA's regulation that tasks resulting in any contact with pesticide-treated surfaces must be accompanied by a decontamination site. Depending on the persistence of the pesticide residues and the time that has elapsed between application and harvest, the risks could still be high. For example, this option could not be applied to orchard crops, melons, and other crops where significant amounts of live plant material or foliage remain after the crop harvest. Because so many different crops leave similar amounts of foliage after harvest, determining the crops that are ineligible for this option would be too resource-intensive.

Second, in those cases where the treated surfaces have been completely removed during harvest, the rule already allows entry with no contact without requiring decontamination supplies.

Finally, the costs of providing a decontamination site (which consists of water, soap, and disposable towels) are quite low. In certain situations, potential exposure to pesticide residues from activities in treated areas, and potential risks, even after harvest, can be high. Therefore, the Agency believes that the risks avoided by having decontamination sites available to workers appear to justify the very small costs of meeting that requirement.

2. *Ending the decontamination requirement when REIs expire.* EPA considered eliminating the requirement for decontamination sites after the particular REI has expired. This option is appealing because the REI represents the time of greatest exposure potential and the greatest potential acute risk. The WPS establishes interim REIs, based on toxicity, for pesticides which have not been through the reregistration process. Excluding the interim REIs set by the WPS, EPA sets permanent REIs through the registration, reregistration and special review processes to coincide with the dissipation of pesticide residues, thereby minimizing potential worker exposure to residues.

EPA is not proposing this option for several reasons. First, pesticide residues often remain even after the REI. The residues present after the REI may not always pose an acute risk, but EPA is also concerned about other risks that they may pose, such as reproductive effects and carcinogenicity. If the decontamination requirements were to be eliminated immediately following the expiration of the REI, the workers would be subject to higher risks. The Agency believes that washing with soap and water will mitigate, to a substantial extent, the potential acute, chronic, and subchronic risks posed by pesticide residues which may remain after the REI.

Second, EPA does not yet have complete data sets on residue dissipation for all pesticides which have not been through the reregistration process; thus, interim REIs may not accurately reflect all potential risk to workers. Based on its experience with the reregistration process, the Agency believes that some REIs may be increased in the future.

3. *Relating the length of time a decontamination site is required to toxicity category.* EPA considered relating the length of time a decontamination site is required to broad toxicity categories (such as Toxicity Categories I through IV). EPA is not willing to propose this option because many pesticides can present risk beyond the REI, particularly for the higher toxicity pesticides. Pesticides can also present other than acute risks and EPA believes that provision of decontamination supplies should continue as currently required for most pesticides.

EPA is willing to propose a reduced decontamination period for a specific subset of pesticides, such as certain determined low-toxicity pesticides that have had 4–hour REIs approved for their use. EPA believes that pesticides that qualify for 4–hour REIs have been shown to present far less risk than pesticides with longer REIs. EPA does not believe that it is prudent to completely eliminate the decontamination requirement for these low-toxicity pesticides based upon the assumption that additional risks, such as carcinogenicity and mutagenicity, may still exist.

B. Proposed Change

This proposal is in response to the input EPA has received from its stakeholders. It addresses only the requirement that decontamination sites be provided to workers for 30 days after the expiration of REIs. Other decontamination provisions will not be affected by this proposal.

1. *Reasons for proposal.* In considering the requests to change the decontamination requirement, EPA has reassessed the initial analysis used to establish the 30–day requirement. This reassessment is based on two factors. The first is the Agency's experience with recent data from the reregistration process. Through the reregistration process, it has been demonstrated that many pesticides pose additional risks, such as carcinogenicity and developmental effects. Second, agricultural pesticides that have not been through the reregistration process lack complete or substantially-complete data sets, making it difficult for the Agency to make an accurate estimate of the risks that these pesticides may pose. Although the Agency has established product specific REIs for pesticides that have completed the reregistration or special review processes, the Agency believes that products with permanent REIs, as well as those products with interim REIs should retain the 30 day decontamination period.

However, EPA has sufficient information to support the proposition that, because different pesticides pose different levels of risk, the current decontamination requirement does not adequately fit all pesticides. EPA is willing to decrease the time a decontamination site is required for pesticides which have been demonstrated to pose low or insignificant worker risks. The criterion EPA is using to determine which pesticides pose low or insignificant worker risks is a 4–hour REI. Any end-use pesticide that has had 4–hour REIs approved will have met or exceeded the standard for low or insignificant risk described in the May 3, 1995 Policy Statement (60 FR 21965).

In that policy statement, EPA identified 114 active ingredients which do not appear to pose any significant risks to workers. Based on substantial data sets (many of the 114 active ingredients have complete data sets) and a thorough screening of each pesticide, EPA believes that the 114 active ingredients listed in the Policy Statement present low risk. This is because of the active ingredients' low acute toxicity, an absence of reported worker poisonings associated with their

use, and because no other toxicity or risk concerns have been identified with them. For active ingredients lacking complete data sets, EPA substituted analog data, which the Agency believes is sufficient for the purpose of the screening. The screening process EPA employed could be compared to a shortened version of the reregistration process, in terms of determining potential risk.

EPA is comfortable with the degree of risk posed by the chemicals that qualify for the reduced REIs. EPA's screening process for active ingredients and end-use products was designed to eliminate chemicals that posed too many unknown risks because of data gaps, absence of chronic effects data, or no analog data. EPA believes that because the active ingredients associated with 4–hour REIs do not appear to pose any significant worker risks, decontamination supplies should be required for less than the current 30–day period. Therefore, the Agency proposes to reduce the 30–day decontamination requirement for all pesticides for which EPA approves 4–hour REIs.

2. *Proposal.* EPA is proposing a range of 1 to 15 days for those pesticides with 4–hour REIs. However, EPA will consider other lengths of time if appropriate data are submitted to support any requested periods. After 45 days from the publication of this proposed rule, EPA will evaluate public comments, select an interval, and issue its conclusions in the final rule.

This change is not proposed for situations where two or more pesticides are mixed together, unless the mixed pesticides have 4–hour REIs, or have all met or exceeded the criteria in the policy statement, or are designated by EPA as having the same or lower risk profile as those chemicals on the list of active ingredients in the policy statement.

Because of the low costs associated with providing decontamination sites and the potential risks workers face from exposure to pesticide residues, EPA is not proposing any other change to the decontamination requirement. EPA has not made the risk-benefit finding necessary to eliminate or otherwise alter the length of the decontamination requirement, except for products with 4–hour REIs.

VI. Solicitation of Comments

EPA is interested in receiving comments and information on the proposal and on options presented, and is providing 15 days for the submission of comments.

While stakeholders did not submit any data to support their request to shorten the period when decontamination sites are required, EPA believes that there is merit to the assertion that the 30–day decontamination requirement may be inappropriate for some low-toxicity pesticides. Therefore, EPA is issuing this proposal to notify the public about possible changes in the WPS decontamination requirement and to solicit information and comments. This information will assist EPA in determining whether the conditions resulting from the proposed change would pose unreasonable risks to workers. In addition, EPA is soliciting information about the economic impact of the proposed option in this document. EPA desires comments on all of the options considered by the Agency, as presented in this proposed rule.

EPA is especially interested in receiving information about the potential implications for regulatory compliance and enforcement that the proposed change might create. Many commenters have requested that the WPS be changed to better fit actual field situations. EPA has responded to these requests by making changes to the WPS where they are justified by weighing the risks and the benefits. However, EPA has received many comments that the WPS is too complicated as a result of these changes, and that these changes result in a more complex rule that is more difficult to comply with and to enforce. Any information that will help EPA resolve the relative trade-offs between regulatory flexibility and more complex regulations will be useful.

EPA is also interested in receiving worker exposure data or worker incident data related to decontamination requirements. Information on the possible risks to workers that could result from any of the proposed options is of interest to EPA. Information from sources such as state incident reporting, poison control centers, hospital surveys, and worker exposure studies (studies involving passive dosimetry are particularly desirable) is valuable.

VII. Statutory Requirements

As required by FIFRA section 25(a), this proposed rule was provided to the U.S. Department of Agriculture and to Congress for review. The FIFRA Scientific Advisory Panel waived its review.

VIII. Public Docket

A record has been established for this rulemaking under docket number "OPP–250108 " (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

IX. Regulatory Assessment Requirements

A. Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this is not a "significant regulatory action." OMB has waived its review.

This proposal does not increase requirements which would increase costs to any person. Any optional changes implemented would reduce the regulatory burden.

B. Regulatory Flexibility Act

This proposed rule was reviewed under the provisions of section 3(a) of the Regulatory Flexibility Act, and it was determined that the rule would not have an adverse impact on any small entities. Moreover, this proposed rule would provide regulatory relief and would not impose any additional costs (in fact, it could lower costs). I therefore certify that this proposal does not require a separate analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

This proposal contains no information collection requirements, and is therefore not subject to the Paperwork Reduction Act.

List of Subjects in Part 170

Environmental protection, Intergovernmental relations, Occupational safety and health, Pesticides and pests, and Reporting and recordkeeping requirements.

Dated: September 25, 1995.

Carol M. Browner,

Administrator.

Therefore, it is proposed that 40 CFR part 170 be amended as follows:

1. The authority citation for part 170 would continue to read as follows:

Part 170—[Amended]

Authority: 7 U.S.C. 136w.

In 170.150, by revising paragraph (a) to read as follows:

§ 170.150 Decontamination.

(a) *Requirement.* (1) If any worker on an agricultural establishment performs an activity in an area where a pesticide has been applied, or a restricted-entry interval (REI) has been in effect, and the worker contacts anything that has been treated with the pesticide, including, but not limited to, soil, water, plants, plant surfaces, and plant parts, the agricultural employer shall provide, in accordance with this section, a decontamination site for washing off pesticide residues for a 30–day period following the expiration of the REI.

(2) If the pesticide (end-use product) that has been applied requires a REI of 4 hours or less, then notwithstanding the requirement for 30 days in paragraph (a)(1) of this section, the agricultural employer shall provide a decontamination site for not less than [1 to 15] days following the expiration of the REI.

* * * * *

[FR Doc. 95–24213 Filed 9–28–95; 8:45 am]

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federal register

Friday
September 29, 1995

Part V

Department of Housing and Urban Development

Historically Black Colleges and Universities Program; Funding Availability for FY 1995; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3945–N–01]

Notice of Funding Availability for FY 1995 Historically Black Colleges and Universities Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA) for fiscal year (FY) 1995.

SUMMARY: This NOFA announces up to $1.5 million of FY 1995 funding for Historically Black Colleges and Universities (HBCU) to undertake jointly funded Community Development Block Grant (CDBG) projects with units of general local government. In the body of this document is information concerning the following:

a. information regarding the purpose of the NOFA and available funds, objectives, eligibility and selection criteria; and

b. Application processing, including how, where and when to apply and how selections will be made.

DATES: No applications will be accepted after *4:30 pm* on November 28, 1995. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Applications may not be submitted by facsimile (FAX).

ADDRESSES: For an application kit contact: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 7255, Washington, DC, 20410–3500. ATTN: HBCU Program. Requests must be in writing and may be sent to this address or may be made by facsimile machine to the following number: (202) 708–3363. The TDD number for the hearing impaired is (202) 708–2565. (This is not a toll-free number.) When requesting an application kit, please refer to document FR– , and provide your name, address (including zip code), and telephone number (including area code). Requests for HBCU application packages should be made immediately. HUD will distribute application packages as soon as they become available.

Application Submission: An original and three copies of the completed application should be submitted to the following address: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 7255, Washington, DC, 20410–3500. ATTN: HBCU Program.

FOR FURTHER INFORMATION CONTACT: Dr. James Turk, Office of Technical Assistance, Department of Housing and Urban Development, 451 7th Street SW, Room 7253, Washington, DC 20410. Telephone Number: (202) 708–3176. The TDD number for the hearing impaired is (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The control number for information described in this document is 2506–0122.

I. Purpose and Substantive Description

Funding is being made available under this NOFA to assist HBCUs in forming partnerships with units of general local governments to conduct joint program efforts. These partners will undertake joint projects to establish multiple use community services facilities on HBCU campuses that will benefit low-income and subsidized housing residents, senior citizens, and the HBCUs.

A. Authority

This program is authorized under section 107(b)(3) of the Housing and Community Development Act of 1974 (the 1974 Act), which was added by section 105 of the HUD Reform Act of 1989. The program is governed by regulations contained in 24 CFR 570.201 through 207, 24 CFR 570.400, 570.404 and 24 CFR part 570, subparts A, C, J, K, and O.

B. Allocation Amounts and Form

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act 1995, (approved September 28, 1994, Pub. L. 103–327), (95 App. Act) appropriated $44,000,000 for special purpose grants pursuant to section 107 of the Housing and Community Development Act of 1974. This notice announces HUD's intention to award up to $1.5 million from these FY 95 funds for partnership projects between units of local government and HBCUs. The maximum amount awarded to any applicant will be $500,000. The awards will be made in the form of grants.

C. Eligibility

1. *Eligible Applicants.* Only HBCUs as determined by the Department of Education in 34 CFR 608.2 in accordance with that Department's responsibilities under Executive Order 12677, dated April 28, 1989, are eligible to submit applications.

2. *Eligible Activities.* Funds are being made available under this NOFA for HBCUs and units of general local government to undertake jointly-funded projects to establish multiple use community services facilities. Examples of such facilities include Counseling and Skills Development Centers, Cultural Art Centers, and Elderly Housing Centers to provide activities such as: Adult basic education classes; GED preparation and testing; job and career counseling and assessment; job readiness and placement assistance; cultural and recreational activities that include dancing lessons, art classes and other support activities for youth, senior citizens and other low and moderate income residents; day care services; and social and medical services.

Activities under this NOFA must not be inconsistent with the locality's community development plan or program, or its HUD-approved consolidated plan in accordance with 24 CFR Part 91. For the purposes of this program, the term "locality" includes any city, local government, county, town, township, parish, village, or other unit of general local government of a State within which an HBCU is located. An HBCU located in a metropolitan statistical area (MSA), as established by the Office of Management and Budget, may consider its locality to be one or more of these entities within the entire MSA. The nature of the locality for each HBCU may, therefore, differ depending on its location.

Those applicants planning to use funds for the provision of public services are bound by the statutory requirement that not more than 15% of the total grant amount be used for public service activities.

3. *Environmental Review.* If the applicant proposes activities involving rehabilitation of structures or construction of buildings, an environmental review is required and

the proposed project must pass an environmental review in accordance with 24 CFR part 50. If the requirements of part 50 are not met, HUD reserves the right to terminate all or portions of the award. The grantee is not authorized to proceed with any activity requiring such approval until written approval is received from the HUD environmental office in your area certifying that the project has been approved.

In accordance with the Coastal Barrier Resources Act (16 U.S.C. 3601), HUD will not approve applications for any activities that would be located or carried out in the Coastal Barrier Resources System.

D. Selection Criteria/Ranking Factors

An applicant must demonstrate that it meets the objectives of this HBCU program by scoring at least 12 of the possible 20 points on ranking factor 1 (addressing the objectives) in order to qualify for funding. Applicants must also receive a minimum score of 70 out of the total of 105 points to be considered eligible for funding. Activities which are not eligible for funding under this program (see 24 CFR 570.207) will not be funded. If more than 50 percent of the amount requested in the application is for ineligible activities, the application will not be funded.

Applications for funding under this Notice will be evaluated competitively, and awarded points based on the factors identified below. The Department will rank the applications in descending order according to score. Applications meeting the minimum threshold requirements will be funded in rank order, until all available funds have been obligated, or until there are no acceptable applications.

Negotiations. After all applications have been rated and ranked and a determination of successful applicants has been made, HUD requires that all successful applicants participate in negotiations to determine the specific terms of the Statement of Work and grant budget. In cases where HUD cannot successfully conclude negotiations, awards will not be made. In such instances, HUD may elect to offer an award (in an amount not to exceed the amount of remaining funds available for the competition) to the next highest ranking applicant and proceed with negotiations as described above.

Match. The Department will accept only those applications which demonstrate that the HBCU and unit of government have both agreed to contribute matching funds to undertake a joint project on the HBCU campus. Each HBCU applying under this competition must include a letter from the Chief Executive Officer of the participating unit of government certifying that it has formed a partnership with the HBCU to undertake a jointly funded CDBG project using both the HBCU funds of this award and local funds to conduct projects on HBCU campuses. The letter from the unit of local government must certify that they are contributing local funds. Matching funds may be in the form of local Community Development Block Grant Funds.

Rating Factors. The factors set forth below will be used by the Department to evaluate applications. Each application must contain sufficient information to be reviewed for its merits. The score of each factor will be based on the qualitative and quantitative aspects demonstrated for each factor in an application. The factors, and the maximum number of points for each factor (out of a total of 105 points, which includes up to 5 bonus points), are as follows:

1. *Addressing the Objectives.* (maximum points: 20)

The extent to which the applicant addresses the objectives of this program is examined by this factor. Applicants must address objective i.A., below, by demonstrating how the proposed joint activities between them and the unit of government will expand the role of the HBCU in meeting local community economic development and/or housing needs while furthering HUD's priorities identified in objective i.B., below.

i. The objectives of this program are:

A. To help HBCUs in undertaking joint activities between them and the unit of local government to establish multiple use community services facilities on HBCU campuses that will benefit low-income and subsidized housing residents, senior citizens, and the HBCU, consistent with the purposes of title I of the Housing and Community Development Act of 1974; and

B. To help HBCUs through joint projects with units of government address the needs of their localities in supporting the following HUD values:

* A Commitment to Community;
* A Commitment to Support Families;
* A Commitment to Economic Lift;
* A Commitment to Reciprocity and to Balancing Individual Rights and Responsibilities.
* A Commitment to Reducing the Separations by Race and Income in American Life.

ii. In rating this factor, the Department will consider:

A. The extent to which the applicant demonstrates that the proposed joint activities to be carried out in the multiple use community services facilities to be established on HBCU campuses with units of government will expand its role and effectiveness in addressing community development needs in its locality(ies), in accordance with objective i.A., above;

B. The extent to which the applicant demonstrates that the proposed joint activities will further one or more of the (5) HUD values specified in objective i.B., above;

C. The extent to which the applicant demonstrates that it will provide to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

2. *Substantial Impact in Achieving Objectives.* (maximum points: 25)

The extent to which the applicant demonstrates that the proposed jointly-funded activities to be carried out in the multiple use community facilities would have a substantial impact in achieving the overall objectives of this NOFA. In rating this factor the Department will consider:

a. The extent to which the applicant demonstrates how the proposed joint activities to be carried out will address needs that were identified as high priorities in each locality's HUD-approved Consolidated Plan in accordance with 24 CFR part 91.

b. The extent to which the applicant demonstrates how the proposed joint activities to be carried out in the multiple use community facilities will impact the low income and elderly residents of the community which the HBCU serves; the applicant should cite specific impacts anticipated.

3. *Special Needs of Applicant or Locality.* (maximum points: 10)

This factor examines the extent to which the applicant demonstrates that the jointly funded activities, to be carried out in the multiple use community services facilities being proposed by the HBCU and the unit of local government, address special needs of the applicant or the locality. In rating this factor, HUD will consider the degree to which the applicant identifies specific groups or neighborhoods to be served, and how the facilities will meet the identified needs of those groups or neighborhoods. More points will be given to applications which target assistance to public housing residents and the elderly.

4. *Technical and Financial Feasibility and Match.* (maximum points: 25)

This factor examines the extent to which the applicant demonstrates the technical and financial feasibility of achieving the objectives, the local support by the unit of government for the activities proposed to be carried out in the locality, and the required matching funds proposed to be provided from sources other than the applicant. In rating this factor, the Department will consider:

a. The extent to which the applicant demonstrates the technical feasibility of achieving the objectives within the program period proposed;

b. The extent to which the applicant demonstrates the financial feasibility of, and local support by the participating unit of government for, the activities to be carried out in the locality, as evidenced by the commitment, from sources other than the applicant, of matching funds, staffing, services, or other in-kind resources.

5. *Capacity.* (maximum points: 20)

This factor examines the extent to which the applicant demonstrates the capacity to carry out satisfactorily the proposed activities in a timely fashion, including consideration of satisfactory performance in carrying out any previous HUD-assisted projects or activities. In rating this factor, the Department will consider:

i. The extent to which the applicant's proposedmanagement plan:

A. Clearly delineates staff responsibilities of the HBCU and local government partners and accountability for all work required;

B. Presents a Statement of Work with a clear and feasible schedule for conducting all project tasks; and

C. Presents a reasonable and adequate budget as reflected in the budget-by-task and supporting justification for the budget. The budget should identify matching dollars and/or in-kind service contributions that have been equated to dollars. The budget should break these out to indicate match versus HUD funds.

ii. The extent to which the applicant demonstrates the recent and relevant work experience of the staff proposed to undertake the activities described in the Statement of Work.

iii. The extent to which the applicant can demonstrate that its past and current projects funded by HUD and/or other Federal or private sector sources are or have been completed on schedule and have met or are meeting goals established for addressing local needs.

iv. The extent to which the applicant demonstrates the proposed program manager's capacity, background and experience to carry out the proposed activities in a satisfactory and timely fashion, as evidenced by recent work experience in managing projects of the same or similar size, dollar amount, and types of activities as those proposed in the application.

Bonus Points. Applicants that undertake joint construction projects on HBCU campuses with units of local governments in a Federally-designated Empowerment Zone, Urban Supplemental Empowerment Zone, Enterprise Community, or Urban Enhanced Enterprise Community will receive a maximum of 5 bonus points. To receive these bonus points applicants must submit with the application package a certification from the authorized representative of the local government that the HBCU is located within the zone.

II. Application Submission Requirements

Complete application submission requirements are contained in the FY 1995 Historically Black Colleges and Universities Program application package. The application package will request information in sufficient detail for HUD to determine whether the proposed activities are feasible and meet all the requirements of applicable statutes and regulations.

III. Corrections to Deficient Applications

Immediately after the deadline for submission of applications, applications will be screened to determine whether all required items were submitted. If the applicant fails to submit certain technical items, or the application contains a technical mistake, such as an incorrect signatory, the Department shall notify the applicant in writing that the applicant has 14 calendar days from the date of the written notification to submit the missing item, or correct the technical mistake. If the applicant does not submit the missing item within the required time period, the application will be ineligible for further processing.

The 14-day cure period pertains only to non-substantive technical deficiencies or errors. Technical deficiencies relate to items that:

1. Are not necessary for HUD review under selection criteria/ranking factors; and

2. Would not improve the substantive quality of the proposal.

IV. Other Matters

(a) Environmental Impact. A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR Part 50 which implement Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410.

(b) Federalism, Executive Order 12612. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this NOFA will not have substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government. Specifically, the NOFA solicits HBCU applicants to expand their role in addressing community development needs in their localities and does not impinge upon the relationships between the Federal government, and State and local governments.

(c) Family, Executive Order 12606. The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this document does not have potential for significant impact on family formation, maintenance, and general well-being. The notice only solicits HBCUs to apply for funding to address community development needs in their locality. Any impact on the family will be indirect and beneficial in that better planning of community development needs should result.

(d) Prohibition Against Lobbying Activities. The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent

on lobbying activities in connection with the assistance.

(e) Section 102 HUD Reform Act; Documentation and Public Access Requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

(f) Section 103 HUD Reform Act. HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR Part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are limited by Part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR Part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

(g) Section 112 HUD Reform Act. Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). The final rule was codified as 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read part 86, particularly the examples contained in Appendix A of the regulation.

Any questions about the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–3000. Telephone: (202) 708–3815; TDD: (202) 708–1112. (These are not toll-free numbers.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d); 24 CFR 570.404.

Dated: September 21, 1995.

Mark C. Gordon,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 95–24200 Filed 9–27–95; 8:45 am]

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federal register

Friday
September 29, 1995

Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Notice of Funding Availability for FY 1995 Historically Black Colleges and Universities Program: Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3937–N–01]

Notice of Funding Availability for FY 1995 Historically Black Colleges and Universities Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA) for fiscal year (FY) 1995.

SUMMARY: This NOFA announces the availability up to $2.5 million of Fiscal Year 1995 funds for ten Historically Black Colleges and Universities (HBCUs) to form Community Development Corporations (CDCs) to undertake eligible activities. In accordance with a memorandum of understanding establishing a public-private partnership between the United States Department of Housing and Urban Development (HUD) and the Structured Employment Economic Development Corporation (Seedco) of New York, New York, Seedco will also provide technical assistance and up to $1 million in low-interest gap loan funding to be made available to the CDCs formed under this program.

Community-based organizations provide the spark that make communities a viable place to live. HUD's Office of the Assistant Secretary for Community Planning and Development has worked to create partnerships across the nation with community-based organizations rebuilding their neighborhoods brick by brick. Efforts to support CDCs created by Historically Black Colleges and Universities are part of the community development partnership for neighborhood revitalization.

In the body of this document is information concerning the following:

a. The purpose of the NOFA and information regarding available amounts, objectives, eligibility and authority; and

b. Application processing, including how, where and when to apply and how selections will be made.

DATES: No applications will be accepted after 4:30 PM on November 28, 1995. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Applications may not be submitted by facsimile (FAX).

ADDRESSES: *For An Application Kit Contact:* Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7255, Washington, DC 20410–3500. ATTN: HBCU CDC Program. Requests must be in writing and may be sent to this address or may be made by facsimile machine to the following number: (202) 708–3363. The TDD number for the hearing impaired is 1–800–877–8339. (This is a toll-free number.) When requesting an application kit, please refer to document FR–3937 and provide your name, address (including zip code), and telephone number (including area code). Requests for HBCU application kits should be made immediately. HUD will distribute application kits as soon as they become available.

Application Submission: An original and three copies of the completed application must be submitted to the following address: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW., Room 7255, Washington, DC 20410–3500. ATTN: HBCU CDC Program.

FOR FURTHER INFORMATION CONTACT: Yvette Aidara, Office of Technical Assistance, Department of Housing and Urban Development, 451 7th Street, SW., Room 7216, Washington, DC 20410. Telephone Number: (202) 401–7912. This is not a toll free number. Access to this information is available to the hearing impaired through the Federal Information Relay Service at 1–800–877–8339. This is a toll-free number.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The control number for information described in this document is 2506–0122.

I. Purpose and Substantive Description

(a) Purpose

The purpose of this NOFA is to assist HBCUs in forming Community Development Corporations (CDC) that will expand the role and effectiveness of HBCUs in addressing community development needs, including neighborhood improvement, housing, economic development and other revitalization efforts, in their surrounding or adjacent communities. Forming a CDC will expand the community development effectiveness of many HBCU's that may be unable to undertake certain activities directly because of requirements in their authorizing charters or State law. A number of HBCUs have already established CDCs or have working relationships with existing CDCs, and this NOFA is intended to promote the establishment of CDCs where HBCU/CDC relationships do not currently exist.

For the purpose of this competition, a CDC is defined as a nonprofit association or corporation which: (1) Is organized under State or local law to engage in community development activities within an identified geographic area of operation adjacent to or in close proximity to the recipient HBCU, or in the case of an urban county, within the jurisdiction of the county; (2) maintains a significant portion of its governing body's membership for low- and moderate-income residents of its geographic area of operation, owners or senior officers of private establishments and other institutions located in and serving its geographic area of operation, or representatives of low- and moderate-income neighborhood organizations located in its geographic area of operation; (3) has as its primary purpose the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area, with particular attention to the needs of low- and moderate-income residents of the area; and (4) has received or applied for a tax exemption ruling from the Internal Revenue Service under section 501(c) of the Internal Revenue Code of 1986. CDCs formed under this program must indicate, through Articles of Incorporation, a commitment to community and economic development activities that use the facilities of the HBCU (physical as well as faculty, administrators and students) and the target locality (residents, businesses and the local government).

The purpose of this NOFA is further supported through a memorandum of understanding establishing a public-private partnership between the United States Department of Housing and Urban Development (HUD) and the Structured Employment Economic Development Corporation (Seedco). This partnership seeks to combine the expertise and resources of HUD's HBCU program and Seedco's Community Development Partnership program to maximize the impact of their assistance to HBCUs seeking to revitalize their surrounding communities. HUD, through its HBCU program, seeks to increase the effectiveness of HBCUs in addressing community development and economic needs. Since 1990, Seedco, a national nonprofit community development support organization, has provided financial and technical assistance for planning and operation of nonprofit, neighborhood-based CDCs. Seedco's participation in this partnership will extend and expand its work with HBCUs.

Seedco intends to provide technical assistance to grant recipients selected under this NOFA to assist them in forming and operating CDCs and carrying out the community development objectives of the CDCs. Seedco will not seek contracts funded from grants made under this NOFA to provide any additional technical assistance or other services to the grantees or to the CDCs formed by them. However, grant recipients are not precluded from using grant funds to pay reasonable and customary registration fees in connection with Seedco-sponsored conferences or workshops. HUD and Seedco intend to hold such meetings as may be necessary to coordinate activities of the HBCU/CDC partnership.

Once recipient HBCU's have established CDCs and implemented a program of eligible activities using the HUD start-up funding of up to $250,000, it is intended that the new CDCs will be eligible for low-interest gap loan funding from Seedco to finance additional eligible activities of the CDC. Seedco intends to set aside up to $1 million in low-interest gap loan funding to be made available to the CDCs formed under this program. Seedco also intends to provide technical assistance to the selected grantees and the CDCs they've helped to form as they implement the individual projects.

(b) Authority

This program is authorized under section 107(b)(3) of the Housing and Community Development Act of 1974 (the 1974 Act), which was added by section 105 of the HUD Reform Act of 1989. The program is governed by regulations contained in 24 CFR 570.201 through 207, 24 CFR 570.400, 570.404 and 24 CFR part 570, subparts A, C, J, K and O.

(c) Allocation Amounts and Form of Award

The Departments of Veterans Affairs and Housing and Urban Development, and the Independent Agencies Appropriations Act 1995 (approved September 28, 1994, Pub. L. 103–327), (95 App. Act) appropriated $44,000,000 for special purpose grants pursuant to section 107 of the Housing and Community Development Act of 1974. This notice announces HUD's intention to award up to $2.5 million from these FY 95 funds to fund HBCUs to create CDCs. The maximum amount awarded to any applicant will be $250,000. The awards will be made in the form of grants.

(d) Objectives

The objectives of this program are:

(1) To help HBCUs, through the formulation of CDCs, expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, consistent with the purposes of Title I of the Housing and Community Development Act of 1974;

(2) To help HBCUs, through the formulation of CDCs, address the needs of their locality(ies) while furthering the following HUD values:

* A Commitment to Community;
* A Commitment to Support Families;
* A Commitment to Economic Lift;
* A Commitment to Reciprocity and to Balancing Individual Rights and Responsibilities; and
* A Commitment to Reducing the Separations by Race and Income in American Life.

(3) To encourage and ensure that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low-income persons, particularly those who are recipients of government assistance for housing consistent with Section 3 of the Housing and Urban Development Act of 1968.

(e) Eligibility

(1) Eligible Applicants. Only HBCUs as determined by the Department of Education in 34 CFR 608.2 in accordance with that Department's responsibilities under Executive Order 12677, dated April 28, 1989, are eligible to submit applications. Eligibility is further limited to such HBCUs that have not already established CDCs or that do not already have working relationships with CDCs, since the purpose of this NOFA is to promote HBCU/CDC efforts where they do not currently exist.

The Department issued a NOFA on April 11, 1995 (60 FR 18456) making up to $4 million of FY 1995 funding available for HBCU activities to expand their role and effectiveness in addressing community development in their localities. Forming a CDC is also an eligible activity under the April 11, 1995 NOFA; however, if an HBCU is selected to receive funding under the April NOFA to form a CDC, that HBCU will not be eligible for funding under this NOFA also. In the event that an HBCU applies for funding to form a CDC under both NOFAs, and scores high enough to be selected under both, it will be funded under the April NOFA only, and HUD will select the next highest ranked applicant for funding under this NOFA.

(2) Eligible Activities. Each application under this competition must propose two activities: first, the formation of a CDC, and second, an eligible activity that will be conducted by the CDC that is formed. The eligible CDC activities that may be funded under this NOFA are those activities eligible for Community Development Block Grant (CDBG) funding. They are listed in 24 CFR 570.201 through 570.206. In addition to basic eligible activities, CDCs may undertake special economic development activities (as described at 24 CFR 570.203 (a) through (c)) and special activities undertaken by community-based development organizations (as described at 570.204). These activities have additional eligibility requirements.

(i) Performance standards. Activities selected for funding under this NOFA will be subject to the following performance standards:

(A) The CDC must be formed, staffed, and operational within one year of the grant award; and

(B) The CDC must begin to implement the activities described in the HBCU's statement of work within two years of the grant award.

HUD reserves the right to terminate funding for the grant award if the above prescribed performance standards are not met within the listed time frame.

(ii) Environmental Review. If the applicant proposes activities involving rehabilitation or construction of structures, the proposed project must pass an environmental review in accordance with 24 CFR part 50. If the

requirements of part 50 are not met, HUD reserves the right to terminate all or portions of the award. The grantee is not authorized to proceed with any activity requiring such approval until written approval is received from the HUD environmental office with jurisdiction over the project area certifying that the project has been approved.

(iii) In accordance with the Coastal Barrier Resources Act (16 U.S.C. 3601), HUD will not approve applications for any activities that would be located or carried out in the Coastal Barrier Resources System.

(f) Selection Criteria/Negotiations

(1) General. An applicant must demonstrate that it meets the objectives of this HBCU program by scoring at least 12 of the possible 20 points on rating factor 1 (addressing the objectives) in order to qualify for funding. Applicants must also receive a minimum score of 70 out of the total of 108 points to be considered eligible for funding. Activities which are not eligible for funding under this program (see 24 CFR 570.207) will not be funded. HUD reserves the right to fund all or portions of the proposed activities identified in each application, based on eligibility of the proposed activities. However, if more than 50 percent of the amount requested in the application is for ineligible activities, the application will not be funded.

Applications for funding under this Notice will be evaluated competitively and awarded points based on the factors identified below. The Department will rank the applications in descending order according to score. Applications meeting the minimum threshold requirements will be funded in rank order, until all available funds have been obligated, or until there are no remaining acceptable applications.

(2) Negotiations. After all applications have been rated and ranked and a determination of successful applicants has been made, HUD requires that all successful applicants participate in negotiations to determine the specific terms of the Statement of Work and grant budget. In cases where HUD cannot successfully conclude negotiations, awards will not be made. In such instances, HUD may elect to offer an award (in an amount not to exceed the amount of remaining funds available for the competition) to the next highest ranking remaining applicant and proceed with negotiations as described above.

(g) Rating Factors

The factors set forth below will be used by the Department to rate and rank applications. Each application must contain sufficient information to be reviewed for its merits. The score for each factor will be based on the qualitative and quantitative aspects demonstrated in the application. The factors, and the maximum number of points for each factor (out of a total of 108 points, which includes up to 8 bonus points), are as follows:

(1) Addressing the Objectives. (maximum points: 20)

(i) The extent to which the applicant addresses the objectives of this program is examined by this factor. Applicants must address objective (A), below, by successfully demonstrating how the proposed activities to be carried out by the CDC will expand the role of the HBCU in meeting local community economic development and/or housing needs while furthering HUD's priorities identified in objective (B), below. The objectives of this program are:

(A) To help HBCUs form CDCs that will expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, consistent with the purposes of the 1974 Act; and

(B) To help HBCUs, through the formulation of CDCs, to address the needs of their localities in meeting the following HUD values:

* A Commitment to Community;
* A Commitment to Support Families;
* A Commitment to Economic Lift;
* A Commitment to Reciprocity and to Balancing Individual Rights and Responsibilities; and
* A Commitment to Reducing the Separations by Race and Income in American Life.

(ii) In rating this factor, the Department will consider:

(A) The extent to which the applicant demonstrates that the CDC's proposed activities and program will expand its role and effectiveness in addressing community development needs in its locality(ies), in accordance with the objective specified in section I.(g)(1)(i)(A) of this NOFA, above; and

(B) The extent to which the applicant demonstrates that the CDC's proposed activities will further one or more of the HUD values specified in section I.(g)(1)(i)(B) of this NOFA, above.

(C) The extent to which the applicant demonstrates that the proposed CDC will provide to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(2) Impact of the Project. (Maximum points: 25)

The extent to which the applicant demonstrates that the proposed CDC's activities would have a substantial impact on the community and economic development of the locality. In rating this factor the Department will consider:

(i) The extent to which the applicant demonstrates how the proposed CDC's activities will address high priority needs identified in each locality's HUD-approved Consolidated Plan in accordance with 24 CFR part 91, especially in the target HBCU neighborhood.

(ii) The extent to which the applicant demonstrates how the proposed CDC's activities will make a substantial contribution to achieve local community development objectives.

(iii) The extent to which the applicant demonstrates that its proposed CDC is willing to forge a common identity and shared goals and objectives between the HBCU and its neighborhood leadership for revitalization of the community.

(3) Special Needs of the Applicant and Locality. (Maximum points: 10)

In rating this factor, the Department will consider:

(i) The extent to which the applicant demonstrates that the CDC formed will create or enhance community-based capacity to successfully carry out community and economic development projects and to attract new government and private financial support for development of the local community.

(ii) The extent to which the CDC will serve to develop local resident leadership capacity and will provide opportunities for HBCU faculty and students to engage in community service and community development activities.

(iii) The extent to which local community support is demonstrated through letters of commitment, record of local accomplishment, and capacity to form a partnership with the applicant to address community outreach, organizing, fundraising and operational aspects of the CDC.

(4) Technical and Financial Feasibility. (Maximum points: 25)

The extent to which the applicant demonstrates the technical and financial feasibility for achieving the objectives, including local support for the activities proposed to be carried out in the locality and any matching funds proposed to be provided from sources other than the applicant is examined by

this factor. In rating this factor, the Department will consider:

(i) The extent to which the applicant demonstrates the technical feasibility for achieving the objectives within the program period proposed as evidenced by a management plan which:

(A) Clearly delineates staff responsibilities and accountability for all work required;

(B) Presents a work plan with a clear and feasible schedule for conducting all project tasks; and

(C) Presents a reasonable and adequate budget as reflected in the budget-by-task and supporting rationale and justification for the budget.

(ii) The extent to which the applicant demonstrates the institutional stability and health in financial and organizational terms sufficient to allow for a sustained focus on community development.

(iii) The extent to which the applicant's Chief Executive Officer demonstrates that the HBCU is committed to forming a CDC and will strongly and vigorously support all aspects of the program.

(5) Capacity. (maximum points: 20)

The extent to which the applicant demonstrates the capacity to carry out satisfactorily the proposed activities in a timely fashion, including satisfactory performance in carrying out any prior HUD-assisted projects or activities, is examined by this factor. In rating this factor, the Department will consider:

(i) The extent to which the applicant demonstrates the recent and relevant work experience of the staff proposed to undertake the activities described in the Statement of Work.

(ii) The extent to which the applicant can demonstrate that its past and current projects funded by HUD and/or other Federal or private sector sources are or have been completed on schedule and have met or are meeting goals established for addressing local needs.

(iii) The extent to which the applicant demonstrates that the proposed activities will be carried out in a satisfactory and timely fashion, as evidenced by recent efforts to initiate and/or manage projects of the same or similar type, size, and dollar amount as those proposed in the application.

(h) Bonus Points. Applicants that propose forming a CDC and implementing activities in a Federally-designated Empowerment Zone, Urban Supplemental Empowerment Zone, Enterprise Community, or Urban Enhanced Enterprise Community will receive a maximum of 8 bonus points. Bonus points will be allocated as follows: three points for placing the offices of the CDC in one of the above-designated zones and five points for carrying out activities within such zones. To receive these bonus points, applicants must submit with the application package a certification from the authorized representative of the unit of local government that: (1) The CDC will place its offices within the zone and/or (2) the CDC's proposed activities will be carried out within the zone.

(i) General Program Requirements.

(1) Statement of Work. After selection for funding but prior to award, each selected applicant must ensure that any deletions, additions or enhancements to the Statement of Work submitted with the application are incorporated into the approved grant, including how the revised Statement of Work will be accomplished. Following a task-by-task format, the approved Statement of Work must:

(i) Delineate the tasks and sub-tasks involved in each activity funded under this NOFA.

(ii) Indicate the sequence in which the tasks are to be performed, noting areas of work which must be performed simultaneously.

(iii) Identify specific numbers of quantifiable end products and program improvements the selected applicant aims to deliver, through the newly established CDC, by the end of the grant period, e.g., number of persons to be assisted; number of units to be provided, rehabilitated, or built; number of classes to be provided; commercial enterprises to be established, etc.

(2) Certifications and Assurances. After selection for funding but prior to award, each selected applicant must submit signed copies of the assurance form covering the following Assurances and Certifications: Drug-Free Workplace; Certification Regarding Lobbying; Applicant/recipient disclosure Update Report; Certification and disclosure Regarding Payments to Influence Certain Federal Transactions (where applicable). This form will be provided in the application kit which will be available following publication of this NOFA.

(3) Project Management and Staff Allocation Plan. After selection for funding but prior to award, each selected applicant must submit a Project Management and Staff Allocation Plan for carrying out the activities proposed in the Statement of Work. The Project Management Plan and Staff Allocation submission must cover the proposed period of performance.

(4) Financial management and Audit Information. After selection for funding but prior to award, each selected applicant must submit a certification from an Independent Public Accountant or the cognizant government auditor, stating that the financial management system employed by the applicant meets prescribed standards for fund control and accountability required by OMB Circular A–110 for institutions of Higher Education and other Non-Profit Institutions. The information should include the name and telephone number of the independent auditor, cognizant Federal auditor, or other audit agency as applicable.

(5) Local approval. Since eligible activities must take place in a locality, after selection but prior to award, each selected applicant must submit a letter from the chief elected official of the locality (or a resolution by the legislative body of the locality) certifying that the activity(ies) to be undertaken are not inconsistent with the local community development or consolidated plan.

(6) Reasonable time and cost for establishing the CDC. HUD reserves the right to limit the amount of grant funds awarded under this NOFA that may be used to establish the CDC. Generally, applicants may be limited to not more than 10% of the award amount for activities associated with establishing the CDC. In addition, the time frame for establishing the CDC should not exceed twelve months from the program start date. HUD may suspend or terminate the grant if the grantee fails to establish the proposed CDC at a reasonable cost and within a reasonable time frame.

II. Application Submission Requirements

Complete application submission requirements are contained in the FY 1995 Historically Black Colleges and Universities Program application package. The application package will request information in sufficient detail for HUD to determine whether the proposed activities are feasible and meet all the requirements of applicable statutes and regulations.

III. Corrections to Deficient Applications

Immediately after the deadline for submission of applications, applications will be screened to determine whether all items were submitted. If the applicant fails to submit certain technical items, or the application contains a technical mistake, such as an incorrect signatory, the Department shall notify the applicant in writing that the applicant has 14 calendar days from the date of the written notification to submit the missing item, or correct the technical mistake. If the applicant does not submit the missing item within the

required time period, the application will be ineligible for further processing.

The 14-day cure period pertains only to non-substantive technical deficiencies or errors. Technical deficiencies relate to items that:

1. Are not necessary for HUD review under selection criteria/ranking factors; and

2. Would not improve the substantive quality of the proposal.

IV. Other Matters

(a) Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410.

(b) Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government. Specifically, the NOFA solicits HBCU applicants to expand their role in addressing community development needs in their localities and does not impinge upon the relationships between the Federal government, and State and local governments.

(c) Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this document does not have potential for significant impact on family formation, maintenance, and general well-being. This notice solicits HBCUs to apply for funding to address community and economic development needs in their locality. While impact on the family will be indirect, there will be benefits that accrue to families in that better planning of community and economic development needs should result.

(d) Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

(e) Documentation and Public Access Requirements; HUD Reform Act, Section 102

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

(f) Prohibition Against Advance Information on Funding Decisions

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants with questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

(g) Prohibition Against Lobbying of HUD Personnel

Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d); 24 CFR 570.404.

Dated: September 18, 1995.

Mark C. Gordon,

General Deputy Assistant Secretary for Community Planning and Development.

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Part VII

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1995–96 Late Season; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AC79

Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1995–96 Late Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special late season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands and ceded lands. This is in response to tribal requests for Service recognition of their authority to regulate hunting under established guidelines. This rule is necessary to allow establishment of seasons and bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

EFFECTIVE DATE: This rule takes effect September 30, 1995.

ADDRESSES: Comments received on the tribal proposals and special hunting regulations are available for public inspection during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA. Communications regarding the documents should be sent to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, 634 ARLSQ, 1849 C St., NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel or Dr. Keith A. Morehouse, Office of Migratory Bird Management, U.S. Fish and Wildlife Service (703/358-1714).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the August 17, 1995 **Federal Register** (60 FR 42960), the U.S. Fish and Wildlife Service (Service) proposed special migratory bird hunting regulations for the 1995–96 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines were developed in response to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for: (1) on-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s); (2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits. In all cases, the regulations established under the guidelines would have to be consistent with the March 10–September 1 closed season mandated by the 1916 Convention on the Protection of Migratory Birds Between the U.S. and Great Britain (for Canada). Tribes that desired special hunting regulations in the 1995–96 hunting season were requested in the March 24, 1995, **Federal Register** (60 FR 15642) to submit a proposal that included details on: (1) requested season dates and other regulations to be observed; (2) harvest anticipated under the requested regulations; (3) methods that will be employed to measure or monitor harvest; (4) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would impact seriously on the migratory bird resource; and (5) tribal capabilities to establish and enforce migratory bird hunting regulations. No action is required if a tribe wishes to observe the hunting regulations that are established by the State(s) in which an Indian reservation is located. The guidelines have been used successfully since the 1985–86 hunting season, and they were made final beginning with the 1988–89 hunting season (August 18, 1988; 53 FR 31612).

Although the August 17, 1995, proposed rule included generalized regulations for both early-and late-season hunting, this rulemaking addresses only the late-season proposals. Early-season hunting was addressed in the rulemaking published in the **Federal Register** on September 1, 1995 (60 FR 46012). As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning and white-winged dove. Late seasons are ordinarily those that begin in late-September or early-October, or later, each year and have a primary emphasis on waterfowl.

This year, the Service's annual breeding duck survey recorded an estimated 35.9 million ducks, a 10 percent increase from 32.5 million last year. Breeding mallard populations rose 18 percent to 8.3 million, the highest level since 1972 and above the North American Waterfowl Management Plan's goal of 8.1 million. Based on survey and production data, the Service is projecting a fall-flight index of about 80 million ducks from the traditional surveyed areas, up 13 percent from last year's estimate of 71 million. As a result, the Service has responded by proposing Flyway frameworks including longer seasons and larger daily bag limits for the 1995–96 waterfowl hunting season (August 28, 1995, **Federal Register**, 60 FR 44463). The fact that liberalization has occurred in bag limits and season length is considered in these final regulations, many of which were proposed before final decisions were made on late-season frameworks for the States.

Tribal Proposals

For the 1995–96 migratory bird hunting season, the Service proposed regulations for 17 tribes and/or Indian groups that followed the 1985 guidelines and were considered appropriate for final rulemaking. Some of the proposals submitted by the tribes have both early- and late-season elements. However, as noted earlier, only those with late-season proposals are included in this final rulemaking; 14 tribes made proposals with late seasons. Nine tribes were represented in the early-season regulations.

There have been no tribal comments or revised proposals for the late seasons received since publication of the early-season final rule. However, tribal proposals were made before late-season final frameworks for States were established. Thus, with the liberalization that has occurred, changes have been made in some of the tribal seasons that are not reflected in the earlier proposed rule document.

Public Comments On Tribal Proposals

The Service received a letter from the Arizona Game and Fish Department (AGFD), dated August 25, 1995, generally supporting the season proposals by Arizona tribes. The AGFD did, however, comment on aspects of the proposals from the Colorado River Tribes and the White Mountain Apache

Tribe. In particular, AGFD was concerned about the apparent lack of a hen mallard restriction in the Colorado River Indian Tribes' proposal and the White Mountain Apache Tribe's proposal of 2 canvasbacks per day in the daily bag limit.

While the above two proposals are not exactly in accordance with the Pacific Flyway's frameworks, the Service's position has generally been that there must be a certain amount of latitude and flexibility in the guidelines developed and established for tribal requests for special migratory bird hunting seasons. The 1985 guidelines were developed in response to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal and non-tribal members on their reservations. Specifically regarding the Colorado River Indian Tribes' and the White Mountain Apache Tribe's proposals, the Service points out that both tribes have established more conservative daily bag limits and seasons than those allowed in the proposed Pacific Flyway frameworks. The Colorado River Indian Tribes have selected a 4-bird daily bag limit and a 59-day season while the White Mountain Apache Tribe has selected a 3-bird daily bag limit and a 58-day season. Pacific Flyway frameworks for the 1995–96 hunting season allow for a 93-day season and a 6-bird daily bag limit.

Other comments from States regarding tribally proposed regulations, received earlier, were addressed in the early-season final rule published on September 1, 1995.

In summary, this rule amends section 20.110 of 50 CFR to make current for the late 1995–96 migratory bird hunting season the regulations that will apply on Federal Indian reservations, off-reservation trust lands and ceded lands. These regulations take into account the liberalization that the Service has determined is biologically feasible for this current season, based on the improved status of ducks.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–74)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975, (40 FR 25241). A supplement to the final environmental statement, the "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88–14)" was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). In addition, an August 1985 environmental assessment titled "Guidelines for Migratory Bird Hunting Regulations on-Federal Indian Reservations and Ceded Lands" is available from the Service.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat . . ." Consequently, the Service initiated Section 7 consultation under the Endangered Species Act for the proposed migratory bird hunting seasons including those which occur on Federally recognized Indian reservations and ceded lands. The Service's biological opinion resulting from its consultation under Section 7 of the Endangered Species Act may be inspected by the public in, and will be available to the public from the Service at the address indicated under the caption **ADDRESSES.**

In an August 1995 finding, the Division of Endangered Species concluded that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats. Among other things, hunting regulations are designed to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats.

Regulatory Flexibility Act, Executive Order 12866, and the Paperwork Reduction Act

In the March 24 **Federal Register**, the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing an Analysis of Regulatory Effects, and an updated Final Regulatory Impact Analysis (FRIA), and publication of a summary of the later. Although a FRIA is no longer required, the economic analysis contained in the FRIA was reviewed and the Service determined that it met the requirements of E.O. 12866. In addition, the Service prepared a Small Entity Flexibility Analysis, under the Regulatory Flexibility Act (5 U.S.C. 601 et seq), which further document the significant beneficial economic effect on a substantial number of small entities. This rule was not subject to review by the Office of Management and Budget under E.O. 12866.

These regulations contain no information collections subject to OMB review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). However, the Service does utilize information acquired through other various information collections in the formulation of migratory game bird hunting regulations. These information collection requirements have been approved by OMB and assigned clearance numbers 1018–0005, 1018–0006, 1018–0008, 1018–0009, 1018–0010, 1018–0015, 1018–0019, and 1018–0023.

Authorship: The primary authors of this final rule are Ron W. Kokel and Dr. Keith A. Morehouse, Office of Migratory Bird Management.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its very nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed hunting regulations for certain tribes were published on August 17, 1995, the Service established the longest possible period for public comments. In doing this, the Service recognized that time would be of the essence. However, the comment period provided the maximum amount of time possible while ensuring that this final rule would be published before the late-hunting season beginning on or about September 30, 1995.

Under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 et seq.), the Service prescribes final hunting regulations for certain tribes on Federal Indian reservations (including off-reservation trust lands), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds other than waterfowl.

Therefore, for the reasons set out above, the Service finds that "good

cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and this final rule will take effect on September 30, 1995.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, Part 20, Subchapter B, Chapter I of Title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

1. The authority citation for Part 20 continues to read as follows:

Authority: 16 U.S.C. 703 et seq. (Editorial Note: The following annual hunting regulations provided for by §20.110 of 50 CFR Part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.)

2. Section 20.110 is revised to read as follows:

§20.110 Seasons, limits and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Nontribal Hunters)

Ducks (including mergansers)

Season Dates: Begin October 15, end November 12, 1995; then open December 9, 1995, close January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 4, which may include no more than 2 pintails, 2 redheads, 1 Mexican duck and 1 canvasback. The possession limit is twice the daily bag limit.

Coots and Common Moorhens

Season Dates: Begin October 15, end November 12, 1995; then open December 9, 1995, close January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 25, singly or in the aggregate. The possession limit is twice the daily bag limit.

Geese

Season Dates: Begin October 21, 1995, end January 22, 1996.

Daily Bag and Possession Limits: The daily bag limit is 5, with 5 in possession. The daily bag limit may not include more than 2 dark (Canada) geese and 3 white (snow, blue, Ross's) geese.

General Conditions: A valid Colorado River Indian Reservation hunting permit is required for all persons 12 years and older and must be in possession before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona.

(b) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Nontribal Hunters)

Ducks (including mergansers)

Season Dates: Begin September 30, end December 31, 1995.

Daily Bag and Possession Limits: The daily bag limit is 6, including no more than 1 female mallard, 2 pintails, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Begin September 30, end December 31, 1995.

Daily Bag and Possession Limits: The daily bag limit is 25, and the possession limit is limited to the daily bag (25).

Geese

Dark

Season Dates: Begin September 30, 1995, end January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 4. The possession limit is twice the daily bag limit.

White

Season Dates: Begin September 30, 1995, end January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 3, and the possession limit is 6.

General Conditions: Nontribal hunters will comply with all basic Federal migratory bird hunting regulations contained in 50 CFR Part 20 regarding manner of taking. In addition, shooting hours are sunrise to sunset and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(c) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Nontribal Hunters)

Ducks and mergansers

Season Dates: Begin October 28, end December 23, 1995.

Daily Bag and Possession Limits: The daily bag limit for ducks is 5, which may include no more than 1 female mallard, 1 mottled duck, 1 canvasback, 1 redhead, 1 pintail, and 2 wood ducks. The daily bag limit for mergansers is 5, which may include no more than 1 hooded merganser. The possession limit is twice the daily bag limit.

Dark Geese

Canada, Brant and White-fronted Geese

Season Dates: Begin October 7, 1995, end January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 2 dark geese, which can include no more than 1 white-fronted goose (or brant). The possession limit is twice the daily bag limit.

Light Geese

Season Dates: Begin October 7, 1994, end January 7, 1995.

Daily Bag and Possession Limits: The daily bag limit is 10, and the possession limit is 20.

General Conditions: The waterfowl hunting regulations established by this final rule apply only to tribal and trust lands within the external boundaries of the reservation. Tribal and nontribal hunters will comply with basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Crow Creek Sioux Tribe also apply on the reservation.

(d) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)

Ducks

Michigan, 1836 Treaty Zone:

Season Dates: Begin October 1, end November 30, 1995.

Daily Bag Limit: The daily bag limit is 5, including no more than 4 mallards (only 1 of which may be a female), 1 black duck, 1 pintail, 2 wood ducks, and 1 canvasback.

Other Geese (Brant, Blue, Snow, and White-fronted)

Michigan, 1836 Treaty Zone:

Season Dates: Begin October 1, end November 30, 1995.

Daily Bag Limit: The daily bag limit is 5.

General Conditions: A valid Grand Traverse Band Tribal license is required and must be in possession before taking any wildlife. Persons twelve years and older are required to have a valid permit. All other basic regulations contained in 50 CFR part 20 are valid. Other tribal regulations apply, and may be obtained at the tribal office in Suttons Bay, Michigan.

(e) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)

Ducks

Michigan, 1842 Treaty Zone:
Season Dates: Begin September 30, end November 18, 1995.
Daily Bag Limit: The daily bag limit is 5, including no more than 4 mallards (only 1 of which may be a female), 1 black duck, 1 pintail, 2 wood ducks, 1 canvasback and 1 redhead.
Michigan, 1836 Treaty Zone:
Season Dates: North Zone, begin September 30 and end November 18, 1995; Middle Zone, begin October 7 and end November 25, 1995; South Zone, begin October 14 and end December 2, 1995.
Daily Bag Limit: The daily bag limit is 5, including no more than 4 mallards (only 1 of which may be a female), 1 black duck, 1 pintail, 2 wood ducks, 1 canvasback and 1 redhead.

Mergansers

Michigan, 1842 Treaty Zone:
Season Dates: Begin September 30, end November 18, 1995.
Daily Bag Limit: The daily bag limit is 5, including no more than 1 hooded merganser.
Michigan, 1836 Treaty Zone:
Season Dates: North Zone, begin September 30 and end November 18, 1995; Middle Zone, begin October 7 and end November 25, 1995; South Zone, begin October 14 and end December 2, 1995.
Daily Bag Limit: The daily bag limit is 5, including no more than 1 hooded merganser.

Canada Geese

Michigan, 1842 Treaty Zone:
Season Dates: Begin September 23, end November 1, 1995.
Daily Bag Limit: The daily bag limit is 5.
Michigan, 1836 Treaty Zone:
Season Dates: North Zone, begin September 23 and end November 1, 1995; Middle Zone, begin October 7 and end November 15, 1995; South Zone, begin October 14 and end December 2, 1995.
Daily Bag Limit: The daily bag limit is 1 for the South Zone and 2 for the North and Middle Zones.

Other Geese (Brant, Blue, Snow, and White-fronted)

Michigan, 1842 Treaty Zone:
Season Dates: Begin September 23, end November 18, 1995.
Daily Bag Limit: The daily bag limit is 7, minus the number of Canada geese taken and including no more than 2 white-fronted geese.
Michigan, 1836 Treaty Zone:
Season Dates: North Zone, begin September 23 and end November 18, 1995; Middle Zone, begin October 7 and end November 25, 1995; South Zone, begin October 14 and end December 2, 1995.
Daily Bag Limit: The daily bag limit is 7, minus the number of Canada geese taken and including no more than 2 white-fronted geese.

Coots and Common Moorhens (Gallinule)

Michigan, 1842 Treaty Zone:
Season Dates: Begin September 30, end November 18, 1995.
Daily Bag Limit: The daily bag limit is 20, singly or in the aggregate.
Michigan, 1836 Treaty Zone:
Season Dates: North Zone, begin September 30 and end November 18, 1995; Middle Zone, begin October 7 and end November 25, 1995; South Zone, begin October 14 and end December 2, 1995.
Daily Bag Limit: The daily bag limit is 20, singly or in the aggregate.
General Conditions: (1) While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.
(2) Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as may be modified by Service final rules adopted in response to a proposed rule, these amended regulations parallel Federal requirements, 50 CFR Part 20, and shooting hour regulations in 50 CFR Part 20, subpart K, as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.
(3) Tribal members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.
(4) Minnesota and Michigan—Duck Blinds and Decoys. Tribal members hunting in Minnesota will comply with tribal codes that contain provisions parallel to M. S. 100.29, Subd. 18 (duck blinds and decoys). Tribal members hunting in Michigan will comply with tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.
(5) Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit.
(6) Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. In Wisconsin, such tagging will comply with Sec. NR 19.12, Wis. Adm. Code. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

(f) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Nontribal Hunters)

Ducks (including mergansers)

Season Dates: Begin October 14, end November 30, 1995.
Daily Bag and Possession Limits: The daily bag limit is 6, including no more than 1 female mallard, 2 pintails and 2 redheads. The season on canvasbacks is closed. The possession limit is twice the daily bag limit.

Geese

The 1995–96 goose season is closed.
General Conditions: Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Jicarilla Tribe also apply on the reservation.

(g) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Nontribal Hunters)

Ducks

Season Dates: Begin October 1, 1995, end January 31, 1996. During this period, days to be hunted are specified by the Kalispel Tribe as weekends, holidays and for a continuous period in the month of December for a total of 66 days. Nontribal hunters should contact the tribe for more detail on hunting days.
Daily Bag and Possession Limits: The daily bag limit is 6 ducks, including no more than 1 female mallard, 2 pintails, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Geese

Season Dates: Begin October 1, 1995, end January 31, 1996. During this period, days to be hunted are specified

by the Kalispel Tribe as weekends, holidays and for a continuous period during the month of December for a total of 66 days. Nontribal hunters should contact the tribe for more detail on hunting days.

Daily Bag and Possession Limits: The daily bag limit is 4 geese, including 4 dark geese but not more than 3 light geese. The possession limit is twice the daily bag limit.

General: All State and Federal regulations, such as those contained in 50 CFR Part 20 and including the possession of a validated Migratory Bird Hunting and Conservation Stamp, will be observed by hunters.

(h) Klamath Tribe, Chiloquin, Oregon (Tribal Members)

Ducks

Season Dates: Begin October 1, 1995, end January 28, 1996.

Daily Bag and Possession Limits: The daily bag limit is 9. The possession limit is twice the daily bag limit.

Coots

Season Dates: Begin October 1, 1995, end January 28, 1996.

Daily Bag and Possession Limits: The daily bag and possession limits are 25.

Geese

Season Dates: Begin October 1, 1995, end January 28, 1996.

Daily Bag and Possession Limits: The daily bag limit is 6. The possession limit is twice the daily bag limit.

General: The Klamath Tribe provides regulations enforcement authority in its game management officers, biologists and wildlife technicians, and has a court system with judges that hear cases and set fines.

(i) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Nontribal Hunters)

Ducks (including mergansers)

Season Dates: Begin October 7, end December 28, 1995.

Daily Bag and Possession Limits: The daily bag limit is 5, including no more than 1 pintail, 1 mottled duck, 1 redhead, 1 canvasback, 2 wood ducks, 1 female mallard and 1 hooded merganser. The possession limit is twice the daily bag limit.

Geese

Dark Geese

Season Dates: Begin October 7, end December 31, 1995.

Daily Bag and Possession Limits: The daily bag limit is 2 Canada geese or 1 Canada goose and 1 white-fronted goose (or 1 brant). The possession limit is twice the daily bag limit.

White Geese

Season Dates: Begin October 7, end December 31, 1995.

Daily Bag and Possession Limits: The daily bag limit is 10, and the possession limit is 20.

General Conditions: All hunters shall comply with the basic Federal migratory bird hunting regulations in 50 CFR Part 20, including the use of steel shot. Nontribal hunters are required to have in their possession a validated Migratory Waterfowl Hunting and Conservation Stamp. The Lower Brule Sioux Tribe has an official Conservation Code that hunters must adhere to when hunting in areas subject to control by the tribe.

(j) Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nontribal Hunters)

Ducks

Season Dates: Begin September 30, end December 31, 1995.

Daily Bag and Possession Limits: The bag limit is 6, including no more than 1 female mallard, 1 pintail, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit for each sex and/or species.

Dark Geese

Season Dates: Begin September 30, 1995, end January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 2 and the possession limit is 4.

Coots and Common Moorhens

Season Dates: Begin September 30, end December 31, 1995.

Daily Bag and Possession Limits: The daily bag limit is 25 singly or in the aggregate, and the possession limit is restricted to the daily bag limit (25).

General Conditions: Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (duck stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(k) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Hunters)

Ducks (including Mergansers)

Season Dates: Begin October 7, 1995, end January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit for ducks is 6, including no more than 1 female mallard, 2 pintails, 1 canvasback and 2 redheads. The daily bag limit for mergansers is 5. The possession limit is twice the daily bag limit.

Coots

Season Dates: Begin October 7, 1995, end January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 10, and the possession limit is 20.

Geese

Season Dates: Begin October 7, 1995, end January 14, 1996.

Daily Bag and Possession Limits: The bag limit is 4 geese, including not more than 3 light geese and 2 white-fronted geese. The possession limit is twice the daily bag limit.

Common Snipe

Season Dates: Begin October 7, 1995, end January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 8, and the possession limit is 16.

General Conditions: Nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must have in his/her possession a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Other regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

(l) Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Nontribal Hunters)

Ducks

Season Dates: Begin October 20, 1995, end January 21, 1996.

Daily Bag and Possession Limits: The daily bag limit is 6, which may include no more than 1 female mallard, 2 pintails, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Begin October 20, 1995, end January 21, 1996.

Daily Bag and Possession Limits: The daily bag limit is 25, and the possession limit is restricted to the daily bag limit (25).

Geese

Season Dates: Begin October 13, 1995, end January 21, 1996.

Daily Bag and Possession Limits: The daily bag limit is 4, including 4 dark geese but no more than 3 light geese.

The possession limit is twice the daily bag limit.

Brant

Season Dates: Begin January 6, 1996, end January 21, 1996.

Daily Bag and Possession Limits: The daily bag limit is 2, and the possession limit is 4.

Snipe

Season Dates: Begin October 20, 1995, end January 21, 1996.

Daily Bag and Possession Limits: The daily bag limit is 8, and the possession limit is 16.

General Conditions: All waterfowl hunters, members and non-members, must obtain and possess while hunting a valid hunting permit from the Tulalip tribes. Also, non-tribal members sixteen years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a validated Federal Migratory Bird Hunting and Conservation Stamp and a validated State of Washington Migratory Waterfowl Stamp. All Tulalip tribal members must have in their possession while hunting, or accompanying another, their valid tribal identification card. All hunters are required to adhere to a number of other special regulations enforced by the tribes and available at the tribal office.

(m) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters)

Ducks (Including Mergansers)

Season Dates: Begin November 11, 1995, end January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 3, including no more than 1 female mallard, 1 redhead, 2 canvasbacks and 1 pintail. The possession limit is twice the daily bag limit.

Coots, Moorhens and Gallinules

Season Dates: Begin November 11, 1995, end January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 25, singly or in the aggregate. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Begin November 11, 1995, end January 7, 1996.

Bag and Possession Limits: The daily bag limit is 2, and the possession limit is 4.

General Conditions: (1) The area open to hunting in the above seasons consists of: the entire length of the Black and Salt Rivers forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 6 and 7. The remaining reservation waters will be closed to waterfowl hunting during the 1995–96 hunting season.

(2) Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking.

(3) See other special regulations established by the White Mountain Apache Tribe that apply on the reservation, available from the reservation Game and Fish Department.

(n) Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Nontribal Hunters)

Ducks (including Mergansers)

Season Dates: Begin November 4, end December 13, 1995.

Daily Bag and Possession Limits: The daily bag limit is 5 ducks, which may include no more than 1 female mallard, 1 redhead, 1 pintail, and 2 wood ducks. The merganser daily bag limit is 5, of which no more than 1 may be a hooded merganser. The possession limit is twice the daily bag limit.

Coots

Season Dates: Begin November 4, end December 13, 1995.

Daily Bag and Possession Limits: The daily bag limit is 15, and the possession limit is 30.

Dark Geese

Season Dates: Begin October 14, 1995, end January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 2, which may include no more than 1 white-fronted goose (or brant). The possession limit is twice the daily bag limit.

White Geese

Season Dates: Begin October 14, 1995, end January 7, 1996.

Daily Bag and Possession Limits: The daily bag limit is 10, and the possession limit is 20.

General Conditions: (1) The waterfowl hunting regulations established by this final rule apply to tribal and trust lands within the external boundaries of the reservation.

(2) Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Yankton Sioux Tribe also apply on the reservation.

Dated: September 25, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

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Part VIII

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171 through 180
Alternate Standards for Open-Head Fiber Drum Packaging; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 through 180

[Docket No. HM–221; Notice No. 95–11]

RIN 2137–AC62

Alternate Standards for Open-Head Fiber Drum Packaging

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Termination of rulemaking concerning alternate standards for open-head fiber drum packaging.

SUMMARY: As directed by Section 122 of the Hazardous Materials Transportation Authorization Act of 1994, RSPA has examined whether there are alternate standards for open-head fiber drums that provide an equal or greater level of safety as the HM–181 performance standards, for the domestic transportation of liquid hazardous materials. Because RSPA finds that there are no known alternate standards that provide an equal or greater level of safety, RSPA is closing this rulemaking without proposing alternate standards. RSPA initiated this rulemaking in an advance notice of proposed rulemaking published on October 7, 1994 [59 FR 51157], and invited the submission of further proposals and comments in a supplemental advance notice of proposed rulemaking published on January 25, 1995 [60 FR 4879].

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001; telephone 202–366–4400.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Statute

Section 122(a) of the Hazardous Materials Transportation Authorization Act of 1994 (Pub. L. 103–311) (the "Act") requires DOT to initiate a rulemaking proceeding

to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation) as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented standards adopted under docket number HM–181 contained in part 178 of title 49, Code of Federal Regulations.

If, as a result of this rulemaking proceeding, DOT determines

that a packaging standard other than the performance-oriented packaging standards referred to in [Section 122(a)] will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented standards were in effect, [DOT] shall issue regulations which implement such other standard and which take effect before October 1, 1996.

Section 122(b). The Act also requires that the rulemaking proceeding be completed before October 1, 1995 (Section 122(c)), but that this rulemaking and any regulations issued "shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation * * *" Section 122(d)(1).

B. HM–181 Performance Standards

As authorized by 49 CFR 171.14, "non-specification" packagings may be used until October 1, 1996, for the transportation of the following categories of liquid hazardous materials:

1. Flammable liquids with a flash point above 73°F, in packagings up to 110 gallons (55 gallons for cargo aircraft, one gallon for passenger aircraft);

2. Liquid cleaning compounds and four other liquid corrosives (coal tar dye, dye intermediate, mining reagent, and textile treating compound), in drums with a removable or "open" head (steel and fiber drums may not be larger than 55 gallons, and the limit for plastic drums is 6.5 gallons) for shipments by rail, highway, and water only; and

3. Hazardous wastes and hazardous substances not included in another hazard class (for materials with a vapor pressure exceeding 16 psi at 100°F, the packaging must be capable of withstanding the inside vapor pressure at 130°F without leaking).

The non-specification packagings authorized for use until October 1, 1996, need not meet the former "DOT" design specifications, but they must be designed, constructed and used so that there will be no identifiable release of hazardous materials to the environment under conditions normally incident to transportation and the effectiveness of the package will not be substantially reduced. 49 CFR 172.24(b); see also 49 CFR 173.24(a) (1990 ed.).

After September 30, 1996, however, fiber drums and other non-bulk packagings used for the transportation of these categories of liquid hazardous materials must meet the performance-oriented standards currently set forth in the Hazardous Materials Regulations (HMR) at 49 CFR Part 178, Subpart M. See 49 CFR 171.14(b)(6). (Non-bulk packagings are those which have a capacity up to 450 liters (119 gallons) or a net mass up to 400 kg (882 lbs.). This discussion of the HM–181 performance standards applies only to non-bulk packagings.)

For liquid hazardous materials, the tests and standard prescribed in the following sections of 49 CFR apply:

Section178.603—drop test
Section178.604—leakproofness test
Section178.605—hydrostatic pressure test
Section178.606—stacking test
Section178.608—vibration standard

These performance-oriented standards replaced DOT design specifications and were adopted in RSPA's rulemaking proceeding in Docket No. HM–181. 55 FR 52042 (Dec. 21, 1990); 56 FR 66124 (Dec. 20, 1991); 57 FR 45446 (Oct. 1, 1992). (Former DOT specifications may be found in the October 1, 1990 edition of Title 49 CFR.)

The performance standards adopted in HM–181 are based on United Nations (UN) recommendations (and sometimes referred to as "UN standards"). They are intended to simulate the normal transportation environment and to achieve international uniformity. Under the UN standards, packagings are subjected to design qualification tests as well as periodic retesting (every year for single packagings; every two years for combination packagings). 49 CFR 178.601(d), (e). In addition, each packaging designed to contain liquids must be subjected to leakproofness testing during production and before reuse. 49 CFR 173.28(b), 178.604(b)(1).

The severity of the tests to which packagings are subjected varies according to the degree of hazard of the material to be transported. Packagings for materials with the greatest hazards (in Packing Group I) must perform at a higher level than packagings designed for less hazardous materials (in Packing Groups II and III). See 49 CFR 178.603(e), 178.604(e), 178.605(d).

A drop test is required for all hazardous materials packagings marked with the UN identification. It is intended to simulate a packaging's fall in transportation, such as a fall off a hand truck or fork lift, or simply off another packaging. The minimum height for the drop test is 0.8 meters (31.5 inches or 2.6 feet) for Packing Group III materials, but greater heights are specified for Packing Group I and II materials. 49 CFR 178.603(e). A stacking test, which is required for all hazardous materials packagings other than bags, determines whether the packagings will withstand the loads that occur when packages are stacked to a height of three

meters (approximately ten feet) on a vehicle or in a warehouse. 49 CFR 178.606(c).

Hydrostatic pressure and leakproofness tests apply only to a packaging designed to contain liquid hazardous materials. In the hydrostatic pressure test, a filled packaging is subjected to an internal pressure. This amount of pressure depends on the liquid material's vapor pressure and Packing Group; it may be as low as 20 kiloPascals (kPa) (less than three psi) for low volatility, low hazard materials, and more than 250 kPa (approximately 36 psi) for Packing Group I volatile liquids. 49 CFR 178.605(d). This test is intended to determine whether the increase in pressure that can occur with a rise in temperature will deform the packaging and cause it to leak.

A leakproofness test is performed as one of the packaging design qualification tests and also on every packaging produced. Depending on the Packing Group of the material to be transported, internal air pressure of 20 or 30 kPa (roughly 2.9 or 4.4 psi) is applied to each packaging to determine if it leaks. 49 CFR 178.604(e). In addition, all hazardous materials packagings must meet the vibration standard to assure that the normal vibration incident to transportation will not cause a packaging to fail. 49 CFR 178.608.

One of RSPA's purposes in the HM–181 rulemaking proceeding was to promote "safety in transport through the use of better packaging." Advance Notice of Proposed Rulemaking, 47 FR 16268, 16289 (Apr. 15, 1982). In the preamble to the final rule, RSPA noted that, in the past, many packaging requirements had been "based on industry standards, with economic considerations sometimes taking precedence over safety considerations, rather than on a systematic assignment of packagings based on the hazards of the materials to be packaged and the suitability of the packaging." 55 FR 52403. RSPA later affirmed that an objective in HM–181 was "to improve transportation safety by upgrading package integrity for a number of materials, including hazardous substances and wastes, previously shipped in non-specification packagings." 56 FR 66145. (A wide variety of materials are included in the category of hazardous substances, many of which, such as polychlorinated biphenyls (PCBs), are not regulated except as environmentally hazardous materials.

C. Prior Industry Requests for Relaxation of HM–181 Standards

Following issuance of the final rule in HM–181, the Fibre Drum Technical Council (FDTC), submitted a petition for reconsideration in which it asked RSPA to continue "the status quo for domestic shipments in non-D.O.T. specification drums" of certain hazardous materials. In December 1991, RSPA denied FDTC's petition and stated that, because it intended to upgrade package integrity, it "never intended to except domestically-used fiber drums from the performance standards it adopted" in HM–181. 56 FR 66146.

In June 1992, FDTC then applied for an exemption from the HMR to allow the continued use of open-head non-specification fiber drums for rail and highway transportation within the United States of the three categories of liquid hazardous materials specified above (plus certain hazardous solids). FDTC stated that these drums would meet a series of six standards prepared for the purpose of establishing an industry specification.

To support its exemption application, FDTC asserted that, over the 1980–1991 period, these drums had a 99.99% safety record. FDTC also stated that the fiber drum industry was "completely unable to meet the new UN/DOT specifications without incurring significant costs and investments, which would make these drums prohibitively expensive in the marketplace." It estimated that "the average percentage (cost) increase related to redesigning the fibre drums to meet specifications is 50 percent" and stated that "the number of units to which the 50 percent increase applies represents a substantial portion of the fibre drum industry."

RSPA's Associate Administrator for Hazardous Materials Safety denied FDTC's exemption application because he found that FDTC's proposed impact test was not equivalent to the drop tests of 3.9 and 2.6 feet, respectively, required for Packing Group II and III packagings, and that FDTC's other proposed standards did not address the pressure requirements of the leakproofness and hydrostatic pressure tests required for packagings intended for liquid hazardous materials. RSPA's Acting Administrator affirmed the denial of FDTC's application for an exemption and found that the standards proposed by FDTC would not achieve a level of safety "at least equal to that specified in the regulation from which the exemption is sought." 49 CFR 107.103(b)(9)(i). In her detailed decision, the Acting Administrator discussed the HMR's prior authority for the use of non-specification fiber drums for certain materials, the adoption of the HM–181 performance standards which eliminated that prior authority, and representative incidents involving spills when a fiber drum fell over or was dropped a short distance. She also considered the 99.99% "success rate" for fiber drums but found that it ignored the types of incidents which occur during normal transportation, including minor accidents that justified RSPA's objective in HM–181 in upgrading packaging integrity.

FDTC's successor organization, the International Fibre Drum Institute (IFDI), states that Congress passed Section 122 of the Act because it was concerned that RSPA had not considered the safety record of open-head fiber drums when it denied FDTC's application for an exemption. According to IFDI, Congress enacted this provision "to require DOT to take a 'fresh and fair' look at open-head fibre drum packaging to determine whether it should be used after October 1, 1996 * * *"

D. ANPRM

On October 7, 1994, RSPA published in the **Federal Register** an advance notice of proposed rulemaking (ANPRM), Docket No. HM–221; Notice No. 94–9 (59 FR 51157), soliciting comments and proposals for alternate standards for open-head fiber drum packaging. In the ANPRM, RSPA requested "[d]etailed comments and proposals * * * that will assist RSPA in developing an appropriate regulatory proposal consistent with the requirement" in Section 122 of the Act. 59 FR 51158. RSPA invited proposals, "preferably in the form of a draft standard, that would assist RSPA in accomplishing the intended effect of this law." *Id.* RSPA also invited comments on whether alternate standards for open head fiber drums should be limited to domestic transportation of liquid hazardous materials.

In response to the ANPRM, RSPA received comments from 17 parties. In addition, RSPA's Administrator and other DOT officials held separate meetings concerning this rulemaking with: (1) IFDI's counsel and officials of Sonoco Products Company (a member of IFDI), and (2) representatives of the Association of Container Reconditioners (ACR), the 3M Corporation, USX Corporation, and the Steel Shipping Container Institute (SSCI). Notes of these two meetings have been placed in the public docket for this rulemaking.

Only IFDI proposed alternate standards for open-head fiber drum

packaging for the transportation of liquid hazardous materials. The set of six standards it has offered appear to be identical to the standards proposed by FDTC in its 1992 exemption application and, according to IFDI, "accurately predict, and will continue to accurately predict, the safety of liquid hazardous materials as transported in open-head fibre drums." IFDI referred to "a 30-year record of safe shipping experience," and a safety record that "has continued to remain at 99.99 percent for the past 14-year period." It asserted that the ANPRM was deficient for failing to specify factors that, according to IFDI, Congress directed DOT to consider. These factors are set forth in the legislative history and include: (1) DOT's Hazardous Incident Reporting System as it pertains to fibre drums; (2) the fibre drum industry's own safety record; (3) the 30 years of shipping experience associated with use of these drums and (4) existing industry standards that have led to the industry's "excellent shipping record."

IFDI also contended that other matters were "irrelevant" to this rulemaking, including the safety record for other packagings (similar to that for fiber drums), the comparative costs of other packagings, and possible impacts that alternate standards would have on international trade agreements.

Several commenters expressed opposition to alternate standards for fiber drums. The 3M Corporation stated: "The UN performance standards are very basic standards that simulate the transportation environment. There are no other standards that simulate the current transportation environment." DuPont acknowledged that it used a "small amount" of fiber drums for shipping non-hazardous liquids, but that its evaluations have led it to follow a "long-standing practice" of not using fiber drums for hazardous liquids. Elf Atochem stated that "liquid-type fiber drums could not offer the filler, carrier and emptier an 'equal or greater level of safety' to a drum which does pass the required [HM–181] tests."

SSCI argued that alternate standards would move the United States away from an international system of hazardous materials regulations, forcing some shippers to stock different packagings for domestic and international shipments, and compromise transportation safety by authorizing lower quality packagings. ACR stated that alternate packagings should be approved only under the provisions of 49 CFR 178.601(h), which authorizes RSPA's Associate Administrator for Hazardous Materials Safety to approve packagings which are "shown to be equally effective, and testing methods must be equivalent."

Monsanto Company supported the position that fiber drums should conform to the HM–181 performance standards, but it suggested a limited exception to allow the use of non-standard fiber drums for the shipment of liquid hazardous wastes in packing groups II and III to incineration facilities, under certain conditions. Monsanto stated that it would not be acceptable "to allow for any other use of fiber drums which do not meet the requirements of performance standards."

Besides opposing the issuance of alternate standards, Russell-Stanley and The Society of the Plastics Institute also stated that if any alternate standards were adopted, they should apply to all open-head drums, including those made from steel and plastic as well as fiber. According to Sirco Systems, Inc., alternate standards would be "a precedent for similar requests by other packaging industries [which] could undermine the entire performance-oriented packaging standards system * * *"

E. SANPRM

On January 25, 1995, RSPA published in the **Federal Register** a supplemental advance notice of proposed rulemaking (SANPRM), Docket No. HM–221; Notice No. 95–2 (60 FR 4879). In the SANPRM, RSPA reopened the comment period and scheduled a public hearing to allow interested parties to submit additional proposals as well as comments with regard to the alternate standards offered by IFDI.

The SANPRM broadly encouraged interested parties to "submit any comments relevant to the direction in Section 122 of the Act." 60 FR 4880. Additional comments were invited on whether the alternate standards proposed by IFDI meet the statutory measure, in light of the prior determination by RSPA (on FDTC's application for an exemption) that similar standards did not provide an equal or greater level of safety than the HM–181 performance standards. RSPA also requested comments on the "factors set forth in the legislative history" of Section 122, as represented by IFDI; whether alternate standards, if adopted, should apply to packagings other than fiber drums; and Monsanto's proposal for a limited exception to allow non-standard fiber drums to be used for shipping hazardous wastes to incineration facilities.

At a public hearing on February 17, 1995, statements were presented by IFDI, three manufacturers of fiber drums, two shippers of hazardous materials in fiber drums, ACR and SSCI. RSPA also received 13 additional written comments, including five from members of Congress: Sens. Hollings (D-SC) and Thurmond (R-SC) and Reps. Baker (R-CA), Gillmor (R-OH), and Spratt (D-SC). All the statements and comments to the ANPRM and the SANPRM have been carefully considered as discussed below.

II. IFDI's Proposed Alternate Standards

FDTC's June 1992 exemption application and IFDI's comments in this proceeding both state that open-head fiber drums presently being manufactured meet the stacking test set forth in 49 CFR 178.606 and the vibration standard set forth in 49 CFR 178.608. As alternatives to the other three HM–181 performance standards (drop, leakproofness, and hydrostatic pressure tests), IFDI has proposed a set of six standards entitled as follows:

IFDI Standard 101, Rev. 1—Compatibility Test
IFDI Standard 110, Rev. 1—Joint Integrity Test
IFDI Standard 120, Rev. 1—Leakage Spray Test
IFDI Standard 130, Rev. 1—Weatherproofing Test
IFDI Standard 140, Rev. 1—Fibre Drum Structure
IFDI Standard 150, Rev. 1—Impact Test

IFDI's standard for fiber drum structure (No. 140) specifies the manner and materials for construction of fiber drums, rather than a test of how the drums will perform. It sets forth specifications for the drum heads, joint materials (caulking and gaskets) and sidewall (paperboard caliper, burst strength, and adhesive). This standard requires that the drum manufacturer know the expected use for the drum, as it specifies non-water soluble adhesive only for drums "intended for outdoor or high humidity storage." It also states that a polyethylene, polymer or poly/foil liner, laminated to the paperboard, "may be used as the interior ply to provide liquid-holding capability and/or improved product protection and drum cleanliness properties."

IFDI's other five standards represent forms of performance standards; according to IFDI, four of them set forth tests to which samples are subjected during the design phase (before regular production begins), and the fifth (leakage spray, No. 120) is "a production run test on each container." In summary, these five standards consist of:

- Compatibility (No. 101)—The test consists of folding and stapling a 6"

square of the drum's lining material into a five-sided cube (or "boat") and exposing the bottom creases under the surface level of a sample of the liquid hazardous material in a closed 8 oz. jar which is then elevated in temperature for "any appropriate set of time and temperature conditions" (for example, 130 °F for 30 days). Other "product contact" materials (such as caulking and gaskets) may also be placed in the jar. Success is indicated when there is no stress cracking of the lining material. IFDI indicates that this test is performed for each different liquid hazardous material for which the drum is to be used.

• Joint Integrity (No. 110)—The test consists of filling a drum with water containing a "wetting agent" (such as "a squirt of dish detergent") and subjecting the drum to the one-hour vibration test specified in 49 CFR 178.608. Success is based on the absence of any "observable staining of the interior and exterior of the drum in the vicinity of the bottom chime." However, IFDI also states that the drum is closed and, accordingly, this test establishes the integrity of both top and bottom joints, including the gasket used in the closure.

• Leakage Spray (No. 120)—The test consists of spraying "[a]ll interior seams and joints of the (plastic lined) surface of each drum * * * with denatured alcohol or its equivalent in such a way that the target drum areas are wetted." The drum passes the test if no stains are observed on the interior surface that would indicate that the paperboard has been wetted through the plastic lining.

• Weatherproofing (No. 130)—This test is applied only to drums intended for outdoor or high humidity storage and consists of subjecting random samples to a 72-hour shower of water at the rate of one inch per hour. The drum passes the test if it loses no more than 15% of its compression strength and is still capable of passing the stacking test in 49 CFR 178.606.

• Impact (No. 150)—After conditioning at specified temperature and humidity for 48 hours, the drum is filled to its net capacity with water and subjected to two tests. It is first tipped over on concrete onto its cover chime. The same drum must then withstand a diagonal drop on the bottom chime "sufficient to provide at least 500 foot-pounds impact," except that the minimum drop height is one foot and the maximum is two feet. This means that a 55-gallon fiber drum designed to contain a liquid with the specific gravity of water (8.3 lbs. per gallon) would be tested from a height of approximately 13 inches. A drum passes the test if there is no leakage.

According to IFDI, "[t]he impact test cannot be evaluated by itself," but three standards in combination (structure, joint integrity, and impact) account for the "outstanding record" of fiber drums and should be compared to DOT's drop test. IFDI also states that the leakage spray test is the industry's version of DOT's leakproofness test, although no pressure is applied "because of the nature of the materials of construction." Nonetheless, IFDI states that this is an "exceedingly sensitive" test and "will reliably detect the smallest leaks." IFDI further comments that the liquid hazardous materials for which fiber drums have been authorized have low vapor pressures, for which the hydrostatic pressure in 49 CFR 178.605 is not necessary. IFDI indicates it will not object if RSPA issues alternate standards limited to liquids with a vapor pressure (Reid Test) not to exceed 16 psia at 100 °F.

IFDI implies that its standards have been in use in the fiber drum industry since 1973, when the liquid materials shipped in fiber drums were first regulated under the HMR. IFDI has claimed a safety record for fiber drums of 99.99% since 1980, based on its review of industry records and DOT's Hazardous Materials Incident Reporting System (HMIS) (and a comparable record before that time). It states that the lack of customer complaints and commercial claims confirms that fiber drums are dependable and safe. Three members of IFDI and two users of fiber drums echo these contentions: Astro Fibre Drum Inc., General Cooperage Co., Sonoco Products Co., Neste Polyester Inc., and Sybron Chemicals Inc.

General Cooperage indicates that 40 million fiber drums of all types are produced each year; between 1980 and 1991, a total of more than 13 million were built for shipping solid and liquid hazardous materials and, during that time, DOT received only 1,487 incident reports "indicating a failure of some type with fibre drums of all kinds." (In its 1992 exemption application, FDTC stated that only 455 of these incidents involved liquid hazardous materials for which non-specification fiber drums were authorized.) According to General Cooperage, the HMIS "indicates that only 72 failures occurred between January 1992 and October 1994 from a total of two million drums built for liquid hazardous materials." Astro and Sonoco also refer to the fiber drum industry's "99.99 percent safety record."

Neste states that, for each of the past seven years, it has shipped approximately 10,000 fiber drums containing its gelcoat product, a polyester resin, without any reported incidents of spillage or other problems in shipping and handling. It indicates it has not had the same success with steel drums, which it previously used. Sybron testifies that it has not had any "safety-related problems" during more than 20 years of shipping various materials, including corrosives and combustibles, in open-head fiber drums. It states its customers prefer fiber drums to other packagings, such as steel and plastic drums, and that fiber drums offer "definite advantages" over these other packagings.

IFDI and Sonoco both assert:

> The yardstick by which any alternate standards should be measured or evaluated in determining whether the standards provide an equal or greater level of safety for transport is whether the standards predict safety in the transport—not whether the alternate standards are identical to the UN or HM–181 standards.

These parties further contend that IFDI's proposed alternate standards "should be evaluated as a whole in terms of their ability to predict safety" in transportation of hazardous materials, and "not on an individualized basis."

ACR and SSCI specifically challenge IFDI's proposed standards. ACR repeats an earlier characterization of IFDI's alternate standards as "similar to but less stringent than those adopted by DOT under HM–181." SSCI states that the HM–181 performance standards are "minimum standards based on real world experience and conditions," but that IFDI's proposed standards "do not adequately reflect a 'real world' transportation environment." ACR contends that the fiber drum industry's arguments come down to: (1) Non-specification open-head fiber drums have a good record of safety in transportation, and (2) these fiber drums have been constructed to industry standards which, based on shipping experience, appear to work well in practice even though the industry standards are not as stringent as the HM–181 performance standards. In this context, however, SSCI states that the IFDI standards "were first adopted in May 1992," both questioning the procedures under which these standards were adopted and implying that the prior shipping experience has little relevance.

ACR points out that IFDI's compatibility test (Standard 101) may be run "under any appropriate set of time and temperature conditions," which "does not meet the rigors of good packaging testing methodology, makes nearly impossible meaningful comparisons of test data, and eliminates the possibility of repeating the tests for purposes of enforcement." According to

SSCI, IFDI acknowledged at the February 17, 1995 public hearing that the compatibility test was not routinely performed. SSCI also takes the position that the compatibility requirement in 49 CFR 173.24(e) "renders this test moot."

Both ACR and SSCI contend that, because IFDI's leakage spray test (Standard 120) does not require pressure inside the fiber drum, it is not equivalent to DOT's leakproofness test. ACR states that the leakage spray test would not be adequate if the vapor pressure of liquid materials "exceeds that of the previously authorized materials." SSCI asserts that this is a problem also with IFDI's joint integrity test (Standard 110) if liquids have "elevated vapor pressures in the normal range of temperatures experienced during transport."

SSCI describes IFDI's impact test (Standard 150) as a "pale substitute" for DOT's drop test and "substantially inadequate to simulate the full range of transporting experiences." It notes that IFDI's impact test does not require dropping a fiber drum more than two feet, which is some 30% less than the 0.8 meters required for packagings certified for Packing Group III materials. SSCI's comments include a memorandum by a professor in the Virginia Tech Department of Mechanical Engineering, who indicates that "energy that must be dissipated at impact is proportional to the drop height (so that) a drum dropped from a height of 2.7 ft. would have to absorb 2.7 times the energy resulting from an impact from a 1 ft. height." This professor states that steel would "dissipate about 3.5 times the energy in plastic deformation" as compared to fiberglass epoxy, which he assumes to have similar properties to a fiber drum. He concludes that

> a valid drop test for drums of different materials must be performed at the same drop height. Drums that are dropped during handling are going to be dropped from the same height regardless of the material that the drum is made of. Therefore, the height that container industry determines by consensus to be representative of mishandling in the field should apply to all container materials. To request a different height for different materials is to ignore how containers are handled in the field.

Shell Chemical Company believes that IFDI has not demonstrated that fiber drum packaging provides a level of safety equivalent to the HM–181 standards for the transportation of liquid hazardous materials. DuPont also urges DOT not to accept "a standard for the United States that is less than the international standard."

III. Other Industry Standards for Non-hazardous Materials

At the February 17, 1995 public hearing, IFDI noted that there are numerous "methods used to evaluate packaging other than the UN performance standards," including the Uniform Freight Classification (UFC), the National Motor Freight Classification (NMFC), and the National Safe Transit Packaging systems. According to IFDI, these systems were developed to evaluate a packaging's ability "to retain its contents so that the packaging will be delivered intact; that there will be no loss of contents." SSCI also stated that the "American performance standards for shipping containers (including the drop, compression, permeability and vibration tests) were first developed by the American Society of Testing and Materials (ASTM) in the 1940's." All of these other systems apply to general freight. Both UFC and NMFC explicitly state that hazardous materials must be tendered in accordance with DOT's regulations, *i.e.*, the HMR. UFC Rule 39; NMFC Item 540. ASTM Standard Practice for Performance Testing of Shipping Containers and Systems (D 4169) states that the "suitability of this practice for use with hazardous materials has not been determined."

As IFDI testified, the UFC and NMFC systems generally use a combination of "both design and performance systems." This is similar to the former DOT 21C specification for fiber drums, which set forth the minimum thickness and strength for the top, bottom, and sidewall of the fiber drum and also included a compression test and a series of four drops from four feet in different orientations (top chime, bottom chime, sidewall and closure). See 49 CFR 178.224 (1990 ed.). The UFC and NMFC standards applicable to fiber drums for liquids set forth several different options. All but one of these options include construction standards, capacities and weight limits as well as the following similar to IFDI's impact test:

> Drums filled to net capacity with water must withstand without leakage a tipover fall on concrete on the cover chime followed by a diagonal drop on the bottom chime sufficient to provide at least 500 foot-pounds impact, except that a maximum height of drop shall not exceed two feet and the minimum height of drop not less than one foot.

The last option in the UFC and NMFC systems allows the use of a fiber drum that passes a four-foot drop test from two different orientations, without regard to construction specifications. In this respect, the UFC and NMFC systems resemble the HM–181 performance standards.

The ASTM D 4169 standard provides for a single test sample to be subjected to a series of tests, such as climate hazards, handling, vehicle stacking, and vibration (loose-load and stacked). The specific tests performed and their order are determined by the shipper's intended "distribution cycle" as to how the package will be shipped, the "acceptance criteria" (whether the package is damage-free or merely intact), and the desired "assurance level." The last is "based on the product value, the desired level of anticipated damage that can be tolerated, the number of units to be shipped, knowledge of the shipping environment, or other criteria." Within "handling" is a drop test that also depends on the type and shipping weight of the package. Among the test methods referred to in ASTM D 4169 is the Standard Test Method for Drop Test for Loaded Cylindrical Containers (D 997), applicable to barrels, drums and kegs of all construction materials. The procedure for drop tests states that the height from which the drum is dropped "will depend upon the purpose of the test, but normally will be 4 ft (1.2 m)." Otherwise, ASTM D 4169 generally prescribes lower drop heights for "large and heavy shipping units and unitized loads to withstand mechanical handling hazards," up to one foot; as applied to drums, these standards appear to contemplate that the drums are secured to a pallet for handling.

Procedures of the International Safe Transit Association (formerly the National Safe Transit Association) for testing packaged products weighing over 100 lbs. (Project No. 1) consist of a vibration test followed by an incline-impact test. For the latter, the package slides down an inclined plane and strikes a vertical surface at a specified velocity. However, this standard appears to be designed only for materials packaged in boxes, and it is not applicable to drums.

IV. Finding on Alternate Standards

Packagings manufactured to IFDI's proposed standards will not meet the drop, leakproofness and hydrostatic tests adopted in HM–181. No pressure is applied in IFDI's leakage spray test. And IFDI's impact test does not measure the ability of a fiber drum to survive a fall on its bottom chime from the minimum 2.6 feet height specified in the HM–181 drop test. The other industry standards discussed above also do not assure that packagings will perform to the same level as packagings that meet the HM–

181 performance standards (other than perhaps the option in the UFC and NMFC systems that includes a four-foot drop test).

As directed by Section 122 of the Act, RSPA must determine whether any of these alternate standards will provide a "level of safety" equal or greater than that provided when packagings meet the HM–181 performance standards. RSPA believes that any specified "level of safety" in the transportation of hazardous materials can only be measured with reference to the performance of the packaging used to transport those hazardous materials. If the packaging fails, safety is compromised. The ultimate purpose of any packaging standards must be, as IFDI puts it, their ability "to predict the safety of [the packaging] in the transportation environment." In other words, how will the packaging perform, and to what extent will it protect its contents during transportation? To make the finding required by Section 122 of the Act, RSPA must determine whether a packaging that meets other standards will perform as well in the normal transportation environment as a packaging that meets the HM–181 performance standards.

The flaw in IFDI's proposed alternate standards is that they contain no means of assuring the same performance that the HM–181 standards measure. IFDI's impact test, a tipover followed by a one-to two-foot drop on the bottom chime, is essentially a lesser form of the 2.6-foot drop test in 49 CFR 178.603. IFDI states that its structure, joint integrity and impact tests, in combination, must be compared to DOT's drop test. But RSPA cannot find anything in the first two that compensates for the inability of IFDI's 55-gallon fiber drum to survive a drop of more than 13 inches. RSPA recognizes the historical use of construction specifications, alone or with performance tests, in IFDI's proposed standards and in the former DOT specifications. However, the only purpose of construction standards is to assure satisfactory performance. A fiber drum manufactured to the IFDI standards cannot perform as well, or achieve the same level of safety as, a drum meeting the HM–181 standard of a drop from 2.6 feet or more.

Similarly, since liquids expand in hot weather, a packaging that will not withstand an increase in pressure is simply not as safe as one that will. While IFDI has stated that it would not object if RSPA limited the use of non-specification fiber drums to liquids with a vapor pressure no greater than 16 psi, RSPA has no basis (from IFDI's submission or otherwise) to find that this limitation is sufficient to avoid those instances when an increase in internal pressure would affect the performance of a drum.

Safety and the ability of a packaging to contain its contents can be increased by certain handling practices that minimize damage to individual packagings. For example, banding or wrapping individual packagings secured to a pallet will reduce the likelihood of one packaging falling over or off another. Restricting the height that packagings are stacked will reduce the distance a single package can fall off another. The familiarity and expertise of a private or contract carrier, that handles only a few hazardous materials, reduces risks associated with a common carrier that transports any freight offered to it. Many exemptions issued by RSPA include operational controls along these lines. Some of these controls are found in Monsanto's proposal for a limited exception to allow the use of non-standard fiber drums for the shipment of liquid hazardous wastes in packing groups II and III to incineration facilities.

Monsanto's proposal would apply to the situation when the entire package (with its contents) was to be incinerated, and would allow the one-time use of drums similar in design to former DOT specifications 21C and 21P, under conditions similar to those set forth in 49 CFR 173.12(c) (authorizing the reuse of standard packagings for shipments of hazardous waste, by highway only, when the packaging is finally closed at least 24 hours in advance of transportation, inspected for leaks, and loaded by the shipper and unloaded by the consignee—or handled only by private or contract carrier). Monsanto would also limit to 90 days the total time the non-standard fiber drum could contain the liquid hazardous waste.

The only party to comment on Monsanto's proposal, the Association of Waste Hazardous Materials Transporters (AWHMT) raised several questions. AWHMT expressed concerns that the liquid hazardous waste would cause the fiber drums to deteriorate during a 24-hour holding period. It also noted that drums are typically double stacked (one on another) during transportation and asked whether double stacking would "compromise the integrity of fiber-drum packagings containing liquids." For AWHMT, the packaging material and pre-trip requirements were not important, but

> all packaging should meet the same level of transportation performance * * * based on safety, not the use proposed for the packaging after transportation * * * In short, transporters should not have to assume increased risk for the convenience of a shipper or consignee.

Monsanto's suggestion appears to exclude fiber drums built to IFDI's proposed standard, because the drums Monsanto would use would meet former DOT specifications 21C (which includes a four-foot drop test) or 21P (which mandates the tests applicable to the inside plastic container). 49 CFR 178–224–2(b), 178–225–5(b) (1990 ed.). In this circumstance, and without further comments on Monsanto's proposal in response to the ANPRM, there is insufficient information on which to propose a rule concerning the use of fiber drums for the shipment of liquid hazardous wastes to incineration facilities.

IFDI, any of its member companies or any other person that wants to use non-specification fiber drums for this or any other purpose may petition RSPA for a rulemaking, in accordance with 49 CFR 106.31, or apply for an exemption and provide the information specified in 49 CFR 107.103.

RSPA assumes that there are an infinite number of possible alternate standards that could be measured against the level of safety provided by the HM–181 performance standards. However, the final determination of whether any standard provides an equal or greater level of safety as the HM–181 standards must rest on whether it produces a packaging that will perform as well in the normal transportation environment as one that meets the HM–181 standards. Because IFDI's proposed standards do not assure this same performance, they will not provide as great a level of safety for the transportation of liquid hazardous materials as the HM–181 standards. In light of that finding, Section 122 does not require RSPA to propose any amendments or additions to the HMR.

V. Congressional Concerns and Other Matters

IFDI points to language in the Congressional Record, and letters from Senators and Representatives to the docket, urging RSPA to consider the fiber drum industry's "excellent shipping record." These letters also question whether the scope of this rulemaking is consistent with Section 122 of the Act.

Sen. Hollings states that RSPA should not consider whether alternate standards should apply to other packagings in this rulemaking. Both he and Sen. Thurmond believe that RSPA's request for estimates of cost differences between present and proposed packagings "goes beyond the statutory mandate." As Sen. Thurmond states,

"the Act directed DOT to consider only one issue—safety." Sen. Thurmond and Reps. Gillmor, Spratt and Baker all advised RSPA to consider the factors mentioned in IFDI's comments to the ANPRM (on which RSPA invited comments in the ANPRM). Sen. Hollings and Rep. Gillmor questioned whether RSPA had prejudged the issues in this rulemaking, and Rep. Spratt stated that the standard of an equal or greater level of safety "is specifically not a standard of equivalence to the performance tests of HM–181."

The Supreme Court has made clear that the "starting point in determining the scope" of legislation "is, of course, the statutory language." *North Haven Bd. of Educ.* v. *Bell*, 456 U.S. 512, 520 (1982). Resort to legislative history, or the asserted intentions of a statute's sponsors, is unnecessary when the language of the statute is unambiguous. *Freytag* v. *Commissioner*, 501 U.S. 868, 873 (1991) ("When we find the terms of a statute unambiguous, judicial inquiry should be complete except in rare and exceptional circumstances."); *United States* v. *Ron Pair Enterprises, Inc.*, 489 U.S. 235, 241 (1989) (where "the statute's language is plain," the only task is to enforce the law according to its terms).

In this case, the Act's command is clear: DOT must determine whether alternate standards will provide "an equal or greater level of safety" than the HM–181 performance standards. The level of safety to be provided by alternate standards is the sole basis of RSPA's finding in Part IV, above, consistent with Section 122 of the Act. Historical shipping experience under lesser standards, in effect prior to the adoption of the performance standards in HM–181, cannot be dispositive.

As a matter of fact, the actual experience of shipping hazardous materials in fiber drums was considered in RSPA's detailed decision on FDTC's appeal from the denial of its application for an exemption. There RSPA's Acting Administrator found that the claimed 99.99% "success rate" for fiber drums was comparable for all packagings but, notwithstanding that record, it was appropriate to further improve safety in HM–181 by eliminating non-specification packagings of all constructions (metal and plastic, as well as fiber). Were RSPA to have accepted the fiber drum industry's position that the past shipping record was satisfactory, that success rate "would foreclose RSPA from taking any further actions to require appropriate levels of safety for the transportation of hazardous materials." Moreover, the types of incidents involving fiber drums were considered to be more reflective of a packaging's performance, and the need to upgrade the packaging, than just the number of incidents.

Also beyond the direction of Section 122 of the Act is IFDI's claim that the HM–181 standards are too strict and need to be relaxed for fiber drums. Under Section 122, the benchmark for alternate standards is HM–181, not some less protective version thereof. Moreover, contentions regarding the impossibility of making fiber drums to meet the HM–181 performance standards and arguments concerning other exceptions from the HM–181 requirements were discussed in detail in the decision on FDTC's appeal from a denial of its application for an exemption.

The only additional matter raised in IFDI's comments in this proceeding relates to an approval recently issued by RSPA that permits the remarking of steel drums, as meeting the HM–181 standards without additional testing, that were certified to meet the former DOT specifications at dates up to September 30, 1994. (Packagings may not be made to the former DOT specifications after September 30, 1994. 49 CFR 171.14(b)(5)(ii).) Those former DOT specifications included a series of tests in which sample drums were required to be tested at pressures of 15 psi or more (some up to 80 psi) and dropped from a height of at least four feet, in various orientations (e.g., diagonally on the chime and on any other part "considered weaker than the chime," 49 CFR 178.116–12(a)(1990 ed.)). Moreover, a remanufacturer who remarks a steel drum, under the authority of this approval, certifies that the drum is capable of meeting the HM–181 performance standards.

In contrast, IFDI would continue the authority to transport liquid hazardous materials in fiber drums that cannot pass a drop test greater than two feet (or 13 inches for the standard 55-gallon drum) or a hydrostatic pressure test at 3 psi. Nothing in RSPA's approval for remarking steel drums can justify the continued use of fiber drums that do not meet either the former DOT specifications or the HM–181 performance standards.

Section 122 of the Act requires RSPA to determine whether alternate standards for fiber drums provide "an equal or greater level of safety" as the HM–181 performance standards. As already discussed, a standard that requires only a one- to two-foot drop test does not provide an equal level of safety as a standard that requires being able to withstand a drop of 2.6 feet. The separate question raised by IFDI, whether certain steel drums actually meet the former DOT specification, is beside the point and concerns enforcement of the applicable standards rather than the appropriate standard to be applied.

VI. Final Agency Action

This rulemaking proceeding is terminated, and this decision constitutes RSPA's final agency action.

Issued at Washington, DC on September 21, 1995, under authority delegated in 49 CFR Part 1.

D.K. Sharma,

Administrator.

[FR Doc. 95–24238 Filed 9–28–95; 8:45 am]

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Part IX

Environmental Protection Agency

Guidance on Acquisition of Environmentally Preferable Products and Services, Solicitation of Comments and Meeting; Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00149; FRL–4780–5]

Guidance on Acquisition of Environmentally Preferable Products and Services; Solicitation of Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces a proposed general guidance designed to assist Executive agencies in identification and acquisition of environmentally preferable products. This document also solicits comments from all interested parties on the proposed guidance. The proposed guidance is in response to section 503 of the Executive Order 12873 on Federal Acquisition, Recycling and Waste Prevention.

DATES: All written comments must be received on or before November 28, 1995.

ADDRESSES: Written comments must be submitted in triplicate and identified with docket number OPPTS—00149 to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–G99, 401 M St., SW., Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to:ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPPTS–00149. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed guidance may be filed online at many Federal Depository Libraries. additional information on electronic submissions can be found in Unit V. of this document.

FOR FURTHER INFORMATION CONTACT: For general information: Danielle Fuligni, telephone number: 202–260–4172, e-mail: fuligni.danielle@epamail,epa.gov. For computer information: John Shoaff, telephone number: 260–1831, e-mail: shoaff.john@epamail.epa.gov. For green building information: Peter Thompson, telephone number: 260–8612, e-mail: thompson.peter@epamail.epa.gov. For General Services Administration/EPA Cleaners Project information: Tom Murray, telephone number: 260–1876, e-mail: murray.tom@epamail.epa.gov. Mailing address for all contact persons except for Tom Murray: Environmental Protection Agency, Office of Pollution, Prevention, and Toxics (7409), 401 M St., SW., Washington, DC 20460. Mailing address for Tom Murray: Environmental Protection Agency, Office of Pollution, Prevention, and Toxics (7406), 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 20, 1993, President Clinton signed Executive Order 12873 entitled "Federal Acquisition, Recycling and Waste Prevention." Section 503 of this Executive Order requires EPA to "issue guidance that recommends principles that Executive agencies should use in making determinations for the preference and purchase of environmentally preferable products." EPA plans to hold a public meeting in October 1995, in Washington, DC to solicit input from interested parties concerning this proposed guidance. More detailed information about the meeting will be published in the **Federal Register** at a later date.

II. Process

To implement section 503, EPA established a process to solicit public input from all interested persons and organizations prior to development of the proposed guidance. EPA developed a "concept paper" that outlined preliminary thoughts on how the guidance might be structured and some guiding principles for implementation of section 503. The public was given an opportunity to comment on the concept paper, and over 50 comments were received. EPA also held a public meeting at which over 20 Executive agencies, companies, organizations, and individuals presented testimony.

In addition, EPA held meetings with "stakeholders" to give interested parties an additional opportunity to present their views on how EPA should proceed in developing principles for Executive agencies to use when making determinations for the preference and purchase of environmentally preferable products (EPPs). Meetings were held with over 20 stakeholders companies and organizations. EPA also consulted with the major purchasing agencies. Use of this public process has given EPA an appreciation for the diversity of views and complexity of the issues involving the acquisition of environmentally preferable products. EPA is open to alternate approaches and welcomes comments on ways to encourage the acquisition of environmentally preferable preferable products.

This proposed guidance is meant to serve as a framework for interested parties to begin a dialogue on environmentally preferability of products and services as it is applicable within the Federal purchasing context. It is also EPA's first comprehensive articulation of its policy on "green" products and as such, it will evolve over time as scientific and technical understanding expands. What follows should serve as a backdrop for comments.

This proposed guidance reflects many months of deliberations and discussions with a wide variety of interested parties, including companies, Executive agencies, academia, environmental organizations, and others. During the process of developing this guidance, it became apparent that different parties had very divergent views on how EPA should go about implementing the Executive Order mandates. Given this, EPA recognizes that the guidance cannot meet all of the needs of all of the interested parties. Instead, the document attempts to capture these many views within a single document while presenting a possible approach that EPA believes will lead to effective implementation of the Executive Order.

EPA's effort to define and apply environmental preferability is not being done in a vacuum. Other initiatives are underway that will impact the Federal government's policies on acquisition and environmental management, most notably the National Performance Review (NPR, also commonly referred to as the "Reinventing Government" initiative). Another initiative is the interim rule amending the Federal Acquisition Regulation (FAR) which will allow consideration of broad environmental factors in acquisition decisions. [1]

At the same time that the Environmentally Preferable Products guidance is being developed, for example, efforts are being made to streamline and simplify the Federal government's procurement process under the NPR. The result will be to reduce the bureaucracy of Federal procurement by delegating additional purchasing authority away from procurement personnel and towards all government employees. To the extent that the streamlining will result in increasing the overall number of

[1] "Federal Acquisition Regulation: Environmentally Preferable Products," Interim Rule, **Federal Register** (60 FR 28494, May 31, 1995).

government purchasers, this guidance will have to be broadly distributed, easily understandable, and supplemented by education and training for government purchases on the environmental implications of their purchasers as well as tools to improve their purchasing performance.

The proposed guidance is intended, like the NPR, to promote a government that "works better and costs less." It will work better by reducing its negative impacts on the environment and ensuring productive, sustainable natural systems. And it will cost less by incorporating environmental considerations into its decisions (in this case, purchasing decisions) and, from a fiscal as well as an environmental standpoint, operating its facilities and programs more efficiently. [2]

To help Executive agencies move forward in acquiring environmentally preferable products, and to help in the further development of the tools and knowledge base to support this initiative, EPA is recommending that voluntary pilot projects be undertaken by Executive agencies. EPA believes that these pilot acquisitions will serve as the "laboratories" for applying this proposed guidance, helping to test the workability of the concepts presented and providing valuable information that can be used to improve the guidance in the future. The proposed guidance includes a more detailed discussion of the pilots.

EPA believes that this proposed guidance provides the first step in bringing forward the key issues surrounding the acquisition of environmentally preferable products, allowing Executive agencies to make the necessary choices more effectively. This proposed general guidance, however, will not answer many of the questions which may arise in acquisition of a particular product category or service, and thus is not intended for use by individual procurement officials. Instead, EPA envisions that the results of the pilot acquisitions will more closely address the needs of the acquisition community. However, EPA believes that this guidance will nonetheless, inform procurement officials interested in making decisions involving environmental preferability.

EPA intends this proposed guidance to serve as a broad framework for acquisitions involving environmentally preferable products or services. Following the issuance of this broad, umbrella guidance, EPA intends to issue more specific guidance on certain product categories. Product categories could include not just common supplies but also services, facilities and/or systems. Which product categories will be the subject of specific guidance will depend upon the plans of the individual Executive agencies and on comments that are solicited from the public. EPA plans to use a public process to develop the product category-specific guidances, so as to draw on the extensive knowledge from both within and outside of the government.

[2] From "Creating a Government That Works Better and Costs Less: Reinventing Environmental Management," page 2.

III. Request for Comment

EPA request comments on all aspects of this proposed guidance and is interested in receiving comments as they relate to the following sections in this unit.

A. General Framework

- Will the framework suggested in the guidance be effective in promoting federal purchase of environmentally preferable products and expand public sector markets for these goods and services? How might it be improved?

B. Guiding Principles

- The proposed guidance presents seven guiding principles. Combined, do these seven principles convey the multi-dimensional and dynamic nature of environmental preferability? Are these the principles that Executive agencies should follow? Are all of these principles appropriate or of equal importance to Executive agencies? What are the best ways to operationalize these principles so that they are easy for procurement officials to use in identifying and giving preference to environmentally preferable products and services?
- In collaboration with other Executive agencies, EPA plans to test out many of the concepts contained in the guiding principles through pilot acquisitions focused on specific product categories. EPA seeks comments on ways that can best facilitate operationalizing the concepts in the guidance through pilot acquisitions and other approaches and which will result in practical, user-friendly tools.
- The proposed guidance promotes a life-cycle perspective to determining environmental preferability. EPA seeks comments on the best and least burdensome ways to encourage reporting of life-cycle information and to embark on practical life-cycle approaches. Is it possible to determine some minimum level of life-cycle information that is necessary to reasonably evaluate environmental preferability of a product or service? What is this minimum level? The government's need for any information needs to be weighed against the burden on vendors of providing, and consumers interpreting, that information.
- The concept of multiple attributes has been presented as a separate principle (Principle #2) from the concept of life-cycle perspective (Principle #3). EPA seeks comments on whether some combination of attributes can determine a product's overall environmental performance or whether such a determination can only be made after assessing the environmental effects during the product's life-cycle. If the latter is more appropriate, EPA seeks comments on whether these two principles should be merged into a single principle so that attributes associated with products are always viewed in the context of a life-cycle perspective.

C. Proposed Menu of Environmental Performance Characteristics

- As part of the guidance, EPA proposes to offer a preliminary list of attributes that can serve as a starting point for presenting and comparing environmental information of products and services. This menu of environmental performance characteristics is attached to the guidance as Appendix B(1). Are these the right set of attributes? What should be added or deleted? Should the list include exposure factors associated with the materials, e.g., potential for exposure (low/high likelihood), number of people exposed, duration of exposure, magnitude of exposure, length of time until exposure, number of acres exposed, number of species exposed, etc? If so, how should these exposure factors be defined? How should the environmental attributes be characterized, i.e., in terms of environmental releases or effects, risks to human health and the environment, or some other characterization? Who should be involved in narrowing down the list of attributes to determine environmental preferability for a specific product category?

D. Establishing Core Environmental Values

Deciding whether one product is more environmentally preferable than another inevitably involves judgements that one environmental impact or environmental stressor is more important than another. The EPA believes that it is appropriate and important to establish a possible framework for a discussion of environmental priorities, and recognizes that there are various ways in which the government may establish

environmental priorities. One possibility for establishing environmental priorities is to use the matrix of ecological stressors and the list of high risk human health stressors that were developed by EPA's Science Advisory Board (SAB) and published in its 1990 report "Reducing Risk: Setting Priorities and Strategies for Environmental Protection."

EPA believes that this report and its findings may offer an appropriate baseline around which to frame the public discussion regarding the establishment of environmental priorities in the context of purchasing environmentally preferable products or services. It should be noted that the rankings in the report are not perfect; they may be incomplete and may emphasize global-scale impacts, at the expense of local ones. EPA is presenting the following matrix of ecological stressors and the list of stressors presenting high risk to human health to begin the public debate, and is very interested in receiving comments on whether this proposed approach should be used for making decisions concerning the relative environmental priorities and thereby assist in determining the preferability of products or services.

EPA recognizes that determining which environmental impacts are most important and setting environmental priorities involve certain value judgements. Who should be responsible for making decisions concerning the relative environmental priorities? EPA envisions applying this decision matrix within the context of pilot acquisitions in hopes of learning how Executive agencies should establish environmental priorities for making decisions about environmental preferability. EPA is interested in receiving comments about this proposed approach. EPA proposes including this decision matrix and the list of human health impacts in the guidance as Appendix E. Should this approach be considered for inclusion as an Appendix to the guidance?

1. Ecological priority impacts matrix. The Decision Matrix for ecological priority impacts, which is presented below, would provide some guidance to Executive agencies on making trade-offs among various environmental attributes.

According to EPA's Science Advisory Board, the ecological recovery time affects the severity of the risk; the longer the recovery time (the less reversible the damage), the higher the risk of that ecological stressor. Thus, the matrix uses reversibility of the impact as the horizontal axis for estimating the severity of the risk associated with environmental attribute information provided by the vendor. Stressors whose effects cause the ecosystem to take centuries or an indefinite amount of time to recover are given a greater risk ranking than those that take years or decades to recover. Non-renewable resource consumption, for example, is considered a more significant ecological stressor than the discharge to water of conventional pollutants such as biochemical oxygen demand, loadings, from which an ecosystem can recover in years.

The Science Advisory Board also considered significant the geographic scale of the area subject to the stress and the importance of the ecosystem that is actually affected within the stressed area. Thus, ecological stressors that have impacts on a global or biosphere basis are to be considered higher risk or more significant than ecological stressors that have an impact only on a local or regional/ecosystem basis. The Agency has, therefore, used geographic scale of the stressor's impact as the vertical axis for its matrix.

TABLE 1.—ECOLOGICAL PRIORITY IMPACTS MATRIX GEOGRAPHIC SCALE/REVERSIBILITY

	Years	Decades	Centuries/indefinite
Local/Regional	Rapidly Renewable Resource Consumption. Conventional Pollutants.		
National	Hazardous Air Pollutants Renewable Resource Consumption. Chemical Releases.	Bioaccumulative Pollutants.	
Global			Non-renewable Resource Consumption. Ecosystem Impacts. Ozone Depleting Chemicals. Global Warming Gases.

2. List of stressors presenting high risk to human health. The list of stressors below have been identified by the Science Advisory Board in its "Reducing Risk" report as presenting high risks to human health. The stressors are not listed in any particular order of importance:

- Ambient air pollutants.
- Hazardous air pollutants.
- Indoor air pollution.
- Occupational exposure to chemicals.
- Bioaccumulative pollutants.[3]

EPA believes that this is one approach to making decisions concerning the relative environmental preferability of products. EPA seeks comments on the usefulness of the ecological impact matrix as well as the list of high priority human health impacts. In addition, readers are encouraged to provide their thoughts concerning the placement of the impacts in the matrix, gaps in the matrix, and whether or not the human health impacts can be prioritized in a similar manner. Comments on other methods of prioritizing ecological and human health impacts are also solicited.

[3] The EPA has added bioaccumulative pollutants to the list of stressors that pose high risks to human health. While not explicitly identified in the SAB report as a high risk stressor, the report does provide support for this addition. The Science Advisory Board (SAB) did not consider bioaccumulative pollutants as a high risk stressor in part because "Unfinished Business" (an earlier report that provided the basis for "Reducing Risk") did not separately break out this category; that report focused on pollutants based on the Agency's organizational and regulatory structure. The SAB report discusses bioaccumulative pollutants in several sections, however, as posing potentially high risks. For example, the report states: "It is also noteworthy that certain environmental toxicants—such as heavy metals, PCBs, and long-lived radionuclides—tend to persist indefinitely in the environment and may gradually become concentrated in certain components of the human food chain. Consequently, such toxicants may continue to pose a threat to human health long after their release into the environment has halted." See Appendix B: The Report of Human Health Subcommittee of Reducing Risk for a more complete discussion of the human health stressors listed above and how the SAB determined that they presented a significant risk.

E. Third Party Environmental Certification Programs

EPA recognizes that a number of public and private programs already award "seal-of-approval" labels on consumer products for certain environmental attributes. Some programs have developed a "report card" approach whereby certain environmental information about a product or groups of products is profiled. Yet others certify single attribute claims made by manufacturers. More than 20 countries have environmental labeling programs and a number of private companies and non-profit programs claim to either identify environmentally preferable products here in the United States or label products based on environmental attributes. These third party environmental certification programs can play the important role of helping consumers identify which products are less environmentally damaging.[4]

Although these third party environmental certification programs currently operate primarily in the consumer sector, their influence in the Federal marketplace could become significant. For example, as streamlining efforts allow more Federal employees to make direct purchasing decisions, agency personnel, in their purchases of commercially available or "off-the-shelf" items may come to equate the "seals" or "report cards" of these programs as being environmentally preferable.[5] In addition, as Executive agencies begin to implement Executive Order 12873, it is possible that Executive agencies will look to these programs to assist in identifying environmentally preferable products in specific procurement. However, Executive agency decisions regarding federal procurement, including those involving the environmental preferability of products, are considered to be an inherent government function. As such, Executive agencies need to ensure that an acquisition decision does not turn on an unverified policy, or value judgment by a non-government entity.

Currently, there are no widely accepted standards for how these programs should operate. Although organizations such as the International Standards Organization (ISO) have initiated efforts to develop a "code of conduct" for eco-labeling programs, the resulting standards will not be finalized for a number of years.[6] Until international standards or other practices are developed, EPA believes that it is appropriate for Executive agencies to consider the following questions if evaluating such programs for use in making decisions regarding the environmental preferability of products. Does the program have:

- An open, public process that involves key stakeholders (businesses, environmental and consumer groups, states etc.) in developing its criteria or standards?
- Award criteria, assumptions, methods and data used to evaluate the product or product categories that are transparent (i.e., they are publicly available, easily accessed and understandable to the lay person)?
- A system of data verification and data quality?
- A peer review process (with representation of all stakeholders) for developing the standards or criteria?
- Criteria which are developed based on a "systems" or life-cycle approach (i.e., "cradle to grave")?
- An outreach program to educate the consumer, which includes clear communications to consumers that provide key information concerning environmental impacts associated with the product?
- An established goal of updating standards or criteria as technology and scientific knowledge advance?
- Authority to inspect the facility whose product is certified to ensure compliance with the standards or criteria?
- Testing protocols for the products that are certified which ensure testing is conducted by a credible institution?
- Access to obtaining the seal by small and medium sized companies (e.g., the cost of the seal is not as high as to prevent access by companies)?
- Compliance with the Federal Trade Commission's (FTC) Guides for the Use of Environmental Marketing Claims?

EPA believes that Executive agencies should not make decisions regarding the environmental preferability of products based on third party environmental certification programs that do not generally meet these basic characteristics. EPA is interested in receiving comments on this proposed approach to dealing with the use of third party environmental certification programs by Executive agencies in making decisions regarding environmental preferability. Although EPA is not proposing that these characteristics be used by individual Federal procurement personnel and does not plan for them to serve as a model for Federal approval of third party environmental certification programs in the private marketplace, it does believe that these characteristics may nonetheless be helpful to decisionmakers. EPA proposes to include this discussion in the guidance as an Appendix F. Should this be considered for inclusion as an Appendix to the guidance? Does the existing FTC Guides help Executive agencies to evaluate third party environmental certification programs?

F. Other Issues

In addition to these specific topics, EPA is also interested in soliciting ideas from the public concerning tools (e.g., a computerized software tool for evaluating products, etc.) that would be useful to Executive agencies in identifying and purchasing "green" products. Finally, EPA is requesting suggestions for pilot categories to target for specific pilot acquisitions and additional guidance.

IV. The Proposed Guidance

For the convenience of the reader, the proposed guidance is published below in its entirety.

Proposed Guidance on Acquisition of Environmentally Preferable Products and Services

I. Introduction

Executive Order 12873. On October 20, 1993, President Clinton signed Executive Order 12873, entitled "Federal Acquisition, Recycling and Waste Prevention."[1] Section 503 of this Executive Order requires EPA to "issue guidance that recommends principles that Executive agencies should use in making determinations for the preference and purchase of environmentally preferable products." "Environmentally preferable" is defined in the Executive Order to mean "products or services that have a lesser or reduced effect on human health and the

[4] The term, third party environmental certification program, is used to capture the different types of programs, including those which verify single environmental claims, compile report cards, award seals, etc.

[5] This may not be warranted particularly if the seal or report card does not provide sufficient information about the criteria used to judge the product.

[6] Work on eco-labeling is being done under the Technical Committee on Environmental Management System (TC 207).

[1] Executive Order 12873 is one in a series of executive orders that President Clinton has signed since 1993 that emphasizes Federal government purchasing practices to promote environmental goals. Other executive orders include: Executive Order 12843, Procurement Requirements and Policies for Executive Agencies for Ozone Depleting Substances; Executive Order 12844, Federal Use of Alternative Fueled Vehicles; Executive Order 12845, Federal Procurement of Energy Efficient Computers; Executive Order 12856, Pollution Prevention and Right-to-Know in the Government; Executive Order 12902, Energy Efficiency and Water Conservation at Federal Facilities; Presidential Memorandum on Environmentally and Economically Beneficial Practices on Federal Landscaped Grounds.

environment when compared with competing products or services that serve the same purpose."

The guidance proposed below is designed to help Executive agencies meet their obligations under this Executive Order to identify and purchase environmentally preferable products and services.[2] It is intended to draw on the extensive procurement experience of the Executive agencies and on the environmental expertise of EPA and others both within and outside of the government. EPA believes that this guidance provides the first step in bringing forward the key issues surrounding the acquisition of environmentally preferable products, allowing Executive agencies to make the necessary choices more effectively. EPA recognizes that this proposed general guidance, however, will not answer many of the questions which may arise in acquisition of a particular product category or service and thus is not intended, although it will be informative, for use by individual procurement officials.

The guidance attempts to implement the goals of the National Performance Review and procurement reform objectives of making Federal purchasing a simpler and not a more complex process. This guidance also recognizes that defining what is an environmentally preferable product and service may require a complex balancing of different environmental factors. In sum, the guidance does the following:

- Focuses on all types of acquisition, from supplies and services to buildings and systems.
- Establishes a general, umbrella guidance and requests Executive agencies to select voluntary pilot acquisitions or demonstration projects.
- Establishes a framework for issuing more detailed guidances on specific product categories that are related to current or future pilot acquisitions.
- Establishes a set of guiding principles.
- Outlines a number of steps for Executive agencies' short-run and medium-run implementation.

II. Broad Principles and Approach

A. Overall Approach

In implementing section 503 of the Executive Order, EPA proposes an approach that has two components. The first is the publication of this general, umbrella guidance. Following this, additional guidances will be issued that will focus on specific product categories. These will be linked to the pilot acquisitions selected by Executive agencies. A more detailed discussion of how these pilot acquisitions might work is included in Section III.B.

Although both components are meant to address multiple audiences (e.g., acquisition community, companies, environmental organizations, etc.), each has a slightly different target audience in mind. The first component, which sets a broad policy framework, is aimed primarily at policy makers and others, both in the public as well as in the private sector, who may be interested in EPA's first comprehensive statement on "green" products. The second component, which will result in more detailed and practical guidance on specific product categories, will be aimed at the procurement and the acquisition personnel. By making clear its goals and directions, both the general and product category specific guidances (PCSGs) should also provide pragmatic direction for companies who desire to produce more environmentally preferable products and services, and who seek to sell those products and services to the Federal government. The consideration of environmental factors in purchasing needs to be put in the context of other important considerations such as performance, health and safety issues and price.

Figure 1 illustrates the approach which is described above.

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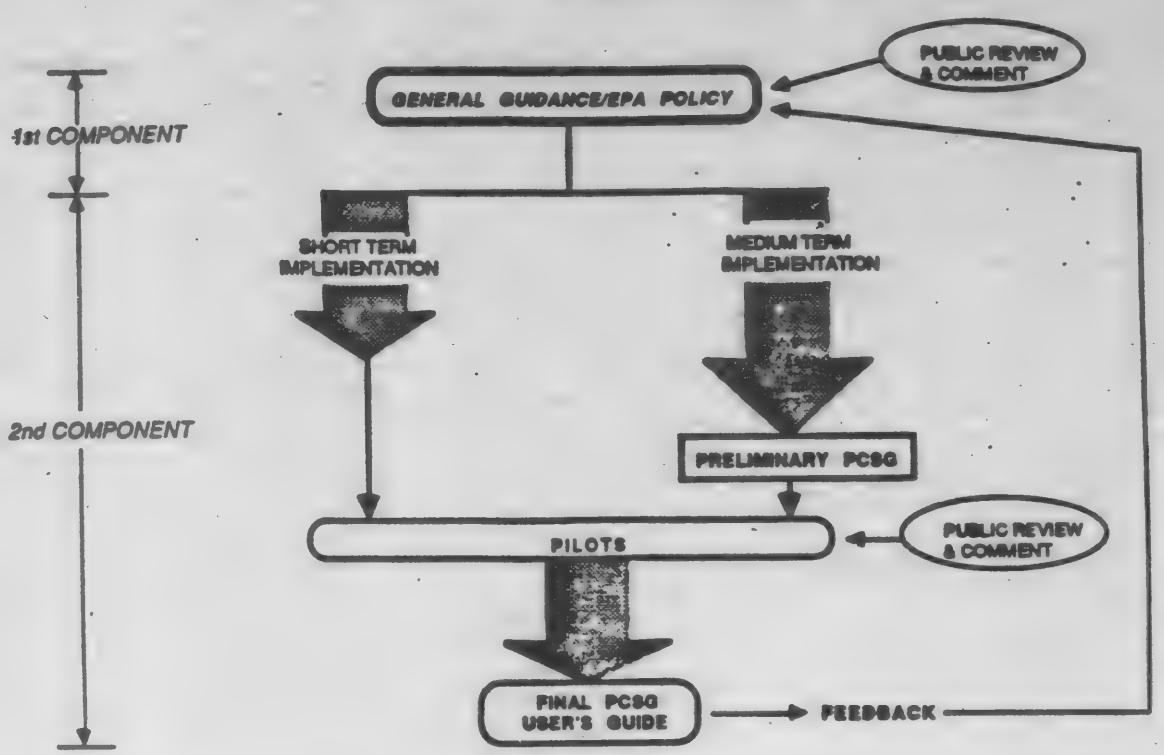
[2] Section 401 of Executive Order 12873 requires Executive agencies to consider the use of environmentally preferable products in acquisition planning for all procurement and in the evaluation and award of contracts, as appropriate. Section 501 of the Executive Order requires Executive agencies to "review and revise federal and military specifications, product descriptions and standards to enhance Federal procurement of products" that are environmentally preferable. Section 503(b) of the Executive Order requires Executive agencies to use the guidance developed by EPA "to the maximum extent practicable" in identifying and purchasing environmentally preferable products.

Figure 1. Implementation Approach



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B. Guiding Principles

The following seven principles are recommended as a broad guide to help Federal purchasers address environmental preferability in Federal acquisitions.

Guiding Principle 1:

Consideration of environmental preferability should begin early in the acquisition process and be rooted in the ethic of pollution prevention which strives to eliminate or reduce, up front, potential risks to human health and the environment.

It has been estimated that 70 percent or more of the costs of product development, manufacture, and use are determined during the initial design stages.[3] Thus, customized purchases or projects where program managers, architects, engineers, systems designers, or others have influence over the design phase afford the agencies an early opportunity to apply environmental preferability and offer a unique point of leverage from which to address environmental impacts.

Environmental preferability does not involve just substituting one "green" product for another, it also involves questioning whether a function needs to be performed, and how it can best be performed to minimize environmental impacts. For instance, in degreasing operations, the question is often posed whether an efficient cleaner using halogenated solvents is better or worse for the environment than an aqueous based cleaner. A more appropriate question may be whether the cleaning/degreasing step can be eliminated without affecting the overall performance of the product or system. This might be accomplished for example, by consolidating cleaning/degreasing in a later stage of the manufacturing process or changing the process itself.

Guiding Principle 2:

A product or service's environmental preferability is a function of multiple attributes.

Environmental preferability is a function of many attributes (e.g., energy efficiency, impacts on air, water, and land and fragile ecosystems, etc.), not just one or two. Targeting a single environmental performance characteristic for improvement, like energy efficiency or recycled content, may be much easier, because they are more easily defined (most of the time), measured and understood. By focusing on one dimension of a product's performance, however, one might overlook other environmental impacts associated with the product that may cause equal or greater damage. Furthermore, it is possible that improvements along one dimension may result in other unintended negative environmental impacts along another dimension.

The menu of environmental performance characteristics described in Appendix B offers a preliminary list of product or service attributes that can help to identify environmentally preferable products.

Guiding Principle 3:

Environmental preferability should reflect life-cycle considerations of products and services to the extent feasible.

Ideally, "environmental preferability" of a product or service should be determined by comparing the severity of environmental damage that the product or service causes to human health and ecological health across its life-cycle with that caused by competing products—from the point of a raw materials acquisition, through product manufacturing, packaging, and transportation to use and ultimate disposal.

The term "life-cycle" is often interpreted by different people to mean very different things. To some, it connotes an exhaustive, extremely time-consuming and very expensive analysis. To other life-cycle is an abbreviated process whereby a long list of potential environmental attributes and/or impacts is narrowed to just a few which provide the basis for comparison across a particular product category. This guidance promotes the latter interpretation and encourages the use of tools which are currently available. For starters, Executive agencies are directed to EPA's document "Federal Facility Pollution Prevention Project Analysis: A Primer for Applying Life Cycle and Total Cost Assessment Concepts." (EPA 300-B-95-008, July 1995)

A more detailed discussion of issues related to life-cycle considerations is included in Appendix C.

Guiding Principle 4:

Environmental preferability should consider the scale (global vs. local) and temporal reversibility) aspects of the impact.

Determination of environmental preferability may require weighing the various environmental impacts among products. For example, is the impact of increased energy requirements of one product more tolerable than the water pollution associated with the use of another product? While there is no clear hierarchy as to which attributes or environmental impacts are most important, EPA has articulated, in its Science Advisory Board's 1990 report entitled *Reducing Risk*, a statement of policy on priority pollutants affecting environmental and public health. In this report, environmental stressors were judged to be significant based on two primary criteria—the geographic scale and degree of reversibility of the impact. Applying this principle suggests that products with pollutants whose effects are local and rapidly reversible are to be generally preferred over products that impose global and irreversible environmental damages.

A matrix of priority ecological impacts that reflects the scale and temporal consideration of impacts, and a list of priority human health impacts is included in a discussion in proposed Appendix E.

Guiding Principle 5:

Environmental preferability should be tailored to local conditions where appropriate.

The importance of environmental impacts may vary depending on geographic location and other site-specific factors, such as the variation in the availability of natural resources and pollutant effects on a particularly sensitive ecosystem. For example, products that conserve water usage may be valued more highly by those who live in the southwest United States where water is scarce than by resident of the northeast where water is abundant. Thus, purchasers may wish to consider local environmental issues when evaluating life-cycle environmental information provided by offerors. When making purchasing decisions, these local issues would need to be carefully weighed against other global and national environmental problems, such as ozone depletion and global climate change.

Guiding Principle 6:

Environmental objectives of products or services should be a factor or subfactor in competition among vendors, when appropriate.

An approach to selecting environmentally preferable products that promotes competition on environmental grounds among vendors is better than an approach which inhibits competitive forces. The consideration of environmental factors in purchasing needs to be put in the context of other important considerations such as performance, health and safety issues and price. A crucial element in fostering competition and encouraging a market-driven approach is to have disclosure of information by vendors about their products and services. Where appropriate, Federal personnel should seek meaningful information about the environmental aspects of products in order to judge whether one product or service is more of less environmentally preferable than another. The accessibility of the information to the public (both the Federal personnel and the general public) will help ensure its accuracy and credibility (e.g., through "the power of the spotlight") as well as to stimulate continuous improvement in the environmental performance of vendors' products.

Guiding Principle 7:

Agencies need to examine carefully product attribute claims.

A number of sources of information about environmental performance of products are currently available.[4] Two general categories of information sources can be distinguished. The first is manufacturers who make claims about their products either on the product label or in their advertisements. Second, some third party environmental certification programs evaluate environmental aspects of products and award "seals-of-approval" or compile "report cards" of environmental information. Others verify specific claims made by manufacturers (e.g., product contains X percent recycled content). The extent to which information conveyed through claims and seals can assist Executive agency personnel in identifying environmentally preferable products may vary depending on the types of product being

[3] From Office of Technology Assessment's "Green Products by Design," page 3.

[4] Information about environmental aspects of products are much more abundant in the consumer marketplace. However, as the Federal acquisition system becomes more decentralized and allows for more direct purchasing of commercially available products, the line that distinguishes the Federal marketplace from the consumer marketplace will become increasingly blurred and the information flow between the two marketplaces will increase.

purchased and the legal requirements applicable for a particular acquisition.

This guidance includes two tools to assist Executive agency personnel in evaluating attribute claims or "eco-labels" that appear on products. First, a summary of the Federal Trade Commission's (FTC) "Guides for Use of Environmental Marketing Terms," appears as Appendix D. Second, EPA proposes to include a discussion of characteristics for third party environmental certification programs in the guidance as Appendix F. Executive agency decisions regarding federal procurement, including those involving the environmental preferability of products, are considered to be an inherent government function, therefore the EPA believes that Executive agencies should not make decisions regarding the environmental preferability of products based on third party environmental certification programs that do not generally meet certain characteristics. EPA has requested comment on this proposed Appendix.

III. Executive Agency Implementation

This section recommends steps that each agency can take to implement the environmentally preferable provisions of Executive Order 12873.

A. Policy Directive and Affirmative Procurement Plans

Recognizing that effective implementation will require clear direction and support from the top levels of the agency, it is recommended that each Executive agency issue a Policy Directive that promotes the purchase of environmentally preferable products and services. Elements in the policy directive should include:

An overall statement of policy:

- Agency personnel should seek to reduce the environmental damages associated with their purchases by increasing their purchase of environmentally preferable products and services to the extent feasible, taking into account other considerations such as performance, health and safety issues and price.
- Environmental factors should be taken into account as early as possible in the acquisition planning and decision-making process.

A commitment to the following:

- Increase the acquisition of environmentally preferable products and services.[5]
- Identification of voluntary pilot projects (see discussion below).
- Establishment of incentive and award programs to recognize those people, teams, and interagency work groups who are most successful at promoting the purchase of environmentally preferable products.[6]

Collaboration among agencies to provide education and training is highly encouraged.

In order to minimize the burden on Executive agencies, EPA recommends that provisions of the Policy Directive to promote environmentally preferable products be incorporated into individual agency's Affirmative Procurement Plans.[7] This can be done as agencies revise their Plans.

B. Pilot Projects

The discussion in Section II.B. identified seven principles which are key to promoting the purchase of environmentally preferable products. To encourage Executive agencies to move forward in acquiring environmentally preferable products and to further develop the infrastructure and knowledge base to support this initiative, EPA is recommending that voluntary pilot projects be undertaken by Executive agencies.

The pilot acquisitions will be the "laboratories" for applying the principles, will help test their workability, and through the results of the pilots, provide actual "lessons learned" as well as improved or more effective policy for future acquisitions. For each of the pilots, a product category specific guidance (PCSG) or "users guide" aimed at the acquisition community will be developed. EPA will seek involvement of established commodity sources, such as the General Service Administration (GSA) and the Defense Logistics Agency (DLA), who have experience and expertise concerning their respective commodities in the pilot projects. EPA plans to keep track of projects that are planned or already underway and thereby serve as a focal point for information on government-wide activities related to environmentally preferable products. Information about different pilots will be disseminated among the agencies to avoid any duplication of efforts and to ensure that lessons learned in one pilot project can be shared to inform other pilot projects.

The discussion below further describes how these pilots and demonstration projects might work. Figure 2 illustrates this process.

1. Selection of pilots. Selection of pilots acquisitions is at the discretion of individual Executive agencies. Criteria that agencies should consider in selecting pilots include:

- Potential for a reduction in risk to human health and the environment.
- Feasibility/degree of flexibility in the acquisition.
- Products or services that are representative or typical of the procurement system; this maximizes the potential value of the pilot acquisition in providing lessons as to the effectiveness of the guidance as well as future acquisitions.

2. Short-term implementation. There are several demonstration projects that are already in the planning or implementation stages that illustrate how to promote the purchase of environmentally preferable products. These include:

GSA/EPA Cleaning Products Pilot

In 1993 at the request of GSA, EPA began developing environmental performance criteria that would help identify "green" cleaning products. Stakeholder meetings were held to develop the criteria, and a study was undertaken to look at product efficacy and the relationship between product performance and environmental impact. Using the results of these efforts, GSA's Federal Supply Service is developing a solicitation for a multiple award schedule that will convey from vendors to federal consumers information on attributes of cleaning products that can serve as indicators of environmental impacts. This information will then be available to purchasers for their examination when selecting products. As part of this pilot, EPA will examine the information provided on the "environmentally preferable cleaning products" schedule and will select cleaning products for EPA facilities.

GSA/EPA Computer Pilot

Computer hardware accounts for approximately $4.6 billion in purchases by the Federal government annually. Currently, the Federal government has been successful in purchasing energy efficient Energy Star computers which have resulted in significant environmental benefits and cost savings. Using its purchasing power, the Federal government can and, in the case of Energy Star, has stimulated product manufacturers to make environmental improvements. EPA and GSA, in collaboration with computer manufacturers and others, are seeking to expand the Energy Star model to identify additional attributes that can be used in the acquisition of environmentally preferable computers.

Current Sources for Products With Environmental Attributes

Executive agencies have the option of acquisition products through various supply sources available from GSA and DLA. GSA's Multiple Award schedules (MAS) are one such source of supply. With recent modifications, these schedules offer to purchasers some information on the environmental performance of products. GSA also currently publishes an Environmental Products Guide which identifies those products which vendors have associated with an environmental claim and a New Item Introductory Schedule that often includes information on the environmental performance of products.[8] While agencies should consider purchasing items from this Guide, they should be aware that often the claims refer to a single environmental attribute (e.g., recycled content) and are not verified by GSA. GSA is planning to enlist EPA's assistance in implementing a demonstration project that will involve expanding these publications to include

[5] This is pursuant to section 602. "Goal for Increasing the Procurement of Recycled and Other Environmentally Preferable Products," which states "Agencies shall strive to increase the procurement of products that are environmentally preferable or that are made with recovered materials and set annual goals to maximize the number of recycled products purchased, relative to non-recycled alternatives."

[6] This is pursuant to section 302(b)(2) of the Executive Order that states that Agency Environmental Executives shall "establish incentives, provide guidance and coordinate appropriate educational programs for agency employees."

[7] Under section 6002 of the Resource Conservation and Recovery Act of 1976, procuring agencies are required to establish affirmative procurement programs for purchasing EPA-designated recycled products. EPA recommends that agencies expand the scope of their affirmative procurement programs to include other environmentally preferable products.

[8] Other catalogs of supply include GSA's Supply Catalog and DLA's Energy Efficient Lighting Catalog.

more comprehensive information on the environmental performance of products.

3. Medium term implementation. In addition to completing the aforementioned pilots that have already been initiated, EPA requests that Executive agencies select voluntary acquisitions that would become the next wave of pilots and which would also benefit from lessons learned from those case studies already underway or completed. These voluntary pilots will be implemented in three phases.

Phase I—Agencies will identify possible pilot projects. Based on their selections, additional guidance targeting specific product categories will be developed and published. EPA will support these pilots, providing overall coordination and technical assistance, as resources allow. The product category-specific guidances will include the following:

- A qualitative description of the most important environmental performance characteristics for that product category; this will involve a scoping process that will include technical experts both inside and outside the government.
- A description of standard methods by which those characteristics can be measured.

Institutionalizing the purchase of environmentally preferable products in the long run requires that the efforts on the part of the Executive agencies not end when these pilots are completed. So that agencies will continue to acquire "green" products, EPA will coordinate an effort to develop additional guidance documents for product categories that will become the subjects of future pilots. These guidance documents, similar to the product category-specific guidances described above, will describe environmental performance characteristics and measurement methods, and will be developed through a process involving technical experts both inside and outside the government. The identity of the product categories to be targeted for additional guidance will be determined at a future date, and will be influenced by suggestions that are submitted during the public comment period on this proposed guidance.

Phase II—Applying the product category-specific guidance to the acquisition process, agencies will actually purchase environmentally preferable products. While the acquisition strategy and method are left to the discretion of the purchasing agency, Executive agencies are asked to select the procurement strategy that:

- Maximizes the number of environmentally preferable product choices available to the purchasing Agency.
- Promotes competition across products in terms of environmental performance.
- Stimulates product and process innovation and continuous improvement.
- Allows for the consideration of local environmental conditions.
- Promotes a definition of environmentally preferable products that can improve over time.

Phase III—Upon completion of the pilot project, a compilation and analysis of lessons learned in the acquisition process, data gathered about product categories and results of the pilots will be assembled. The results of these joint efforts will be shared with other agencies through the Electronic Acquisition Network process. EPA believes that the lessons learned from these efforts will help to refine the concepts and principles contained in the general guidance and thereby ensure the effective implementation of the mandates in the Executive Order.

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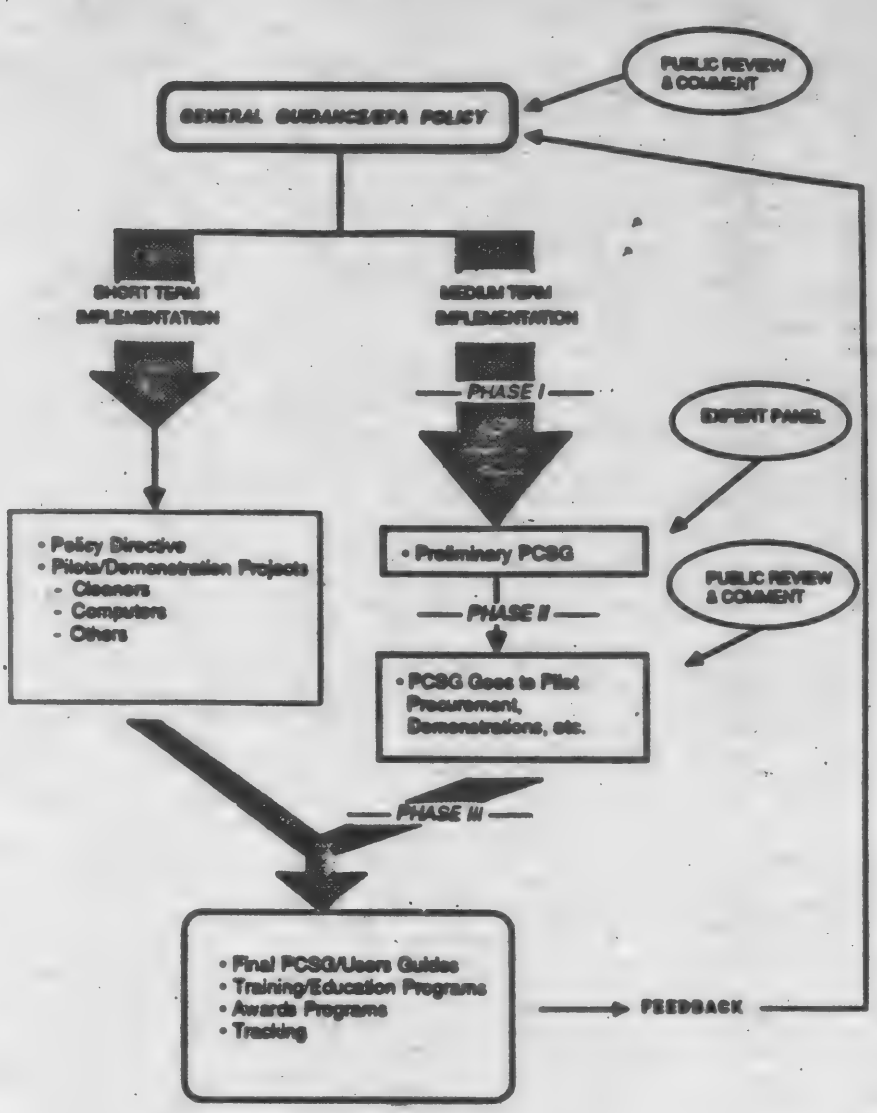
Figure 2. Pilot Implementation



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4. Long-term success. The experience gained from the short- and medium-term pilots will be key to determining the scope and nature of EPA's long-term activities to advance Federal acquisition of environmentally preferable products and services. The lessons learned from these pilots as well as the partnerships formed during the pilots will help to establish a broader infrastructure to support this initiative. EPA may need to utilize existing or help develop new mechanisms—guidance, networks, data bases, etc.—in support of the Federal purchasing community to build this infrastructure. The infrastructure can serve to bridge the gap between the environmental and procurement expertise within the Executive agencies.

All Federal personnel will have a role in creating a demand for products and services that have fewer environmental burdens. Thus, the infrastructure will also have to support the development of tools that are easy and convenient for Federal personnel to use in selecting and purchasing environmentally preferable products.

Furthermore, in light of the evolving acquisition landscape and the dynamic nature of the marketplace, the infrastructure will have to be flexible in order to meet the changing needs of the acquisition community. Given the increased globalization of the economy and the trend towards commercialization of the Federal marketplace, another important consideration will be to coordinate this initiative with new interntional trade and standardization developments. Ultimately, the measure of success of this initiative will be in terms of increased availability and purchase of products and services that have fewer impacts on human health and the environment.

Appendix

The set of appendices that follows should be viewed by procuring officials and other government employees as separate but related "tools boxes" to be used in determining preferability. As with all tasks, the type and complexity of the tools should be appropriate to the magnitude and importance of the job. The EPA seeks comments on the appendices that follow:

Appendix A. Glossary of Terms
Appendix B. Environmental Performance Characteristics
(1) Preliminary "Menu" of Environmental Performance Characteristics
(2) Definitions for Terms in the Menu of Environmental Performance Characteristics
Appendix C. Applying a Life-Cycle Perspective
Appendix D. Summary of FTC's "Guides for Use of Environmental Marketing Claims"

Appendix A. Glossary of Terms

Environmentally preferable. Products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. The comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.

Life-cycle assessment. The life-cycle assessment is a process or framework to evaluate the environmental burdens associated with a product, process, or activity by identifying and quantifying energy and material usage and environmental releases, to assess the impact of those energy and material uses and releases on the environment, and to evaluate and implement opportunities to effect environmental improvements. The assessment includes the entire life-cycle of the product, process, or activity, encompassing extracting and processing raw materials; manufacturing, transportation and distribution; use/re-use/maintenance; recycling; and final disposal.

Often the terms life-cycle assessment and life-cycle analysis are used synonymously. The Executive Order uses the latter and provides a slightly different definition as follows: "Life-cycle analysis is a comprehensive examination of a product's environmental and economic effects throughout its lifetime including new material extraction, transportation, manufacturing, use and disposal.

Life-cycle cost. For the purposes of this guidance document, life-cycle cost is defined to mean all internal and external costs associated with a product, process, or activity throughout its entire life-cycle—from raw materials acquisition to manufacture to recycling/final disposal of waste materials. The term life-cycle cost has also been used by the Department of Defense to mean the amortized annual cost of a product, including capital costs, installation costs, operating costs, maintenance costs, and disposal costs discounted over the lifetime of a product. However, this second definition has traditionally not included environmental costs associated with systems and thus, the first definition is used in the guidance.

Multiple Award Schedule (MAS). MASs contain a number of product listings for which several vendors are available for a particular product. Purchasers obtain information from the vendors and determine from which vendor they want to buy.

Pollution prevention. Pollution prevention means "source reduction," as defined under the Pollution Prevention Act of 1990, and other practices that reduce or eliminate the creation of pollutants through:

—Increased efficiency in the use of raw materials, energy, water, or other resources, or
—Protection of natural resources by conservation.

The Pollution Prevention Act defines source reduction to mean any practice which:

—Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and
—Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

The term includes: equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training or inventory control.

Third party certification programs. Within the context of this guidance, this general term is used to include programs (either non-profit or for-profit, government-run, government-related or independent) that verify or certify single attribute claims made by manufacturers or other programs that compile key environmental information into "report cards" (e.g., those compiled by the Scientific Certification Program). The term also encompasses a large category of both international and to a lesser extent, domestic programs that award "seals-of-approval" to those products that meet a specific set of environmental award criteria. Award criteria may reflect an analysis of environmental impacts, such as Canada's Environmental Choice's standards for reduced-pollution paint, or single categories, such as Japan's EcoMark seal awarded for the rocycled content of paper. A seal is given only if a product meets the standards established by the program. Most of the major foreign environmental certification programs use a seal of approval approach. Active third party seal of approval programs include Germany's Blue Angel, Canada's Environmental Choice, Japan's EcoMark, Green Seal (U.S.), and the international Flipper Seal-of-Approval, among others.

Participation by manufacturers or vendors in the various programs is usually on a voluntary basis.

Appendix B. Environmental Performance Characteristics

The menu of environmental performance characteristics listed below is designed to help identify the attributes that can be targeted for improvement. This, together with the life cycle graphic which appears in Appendix C, can be used by Federal purchasers to help select that product or service that minimizes environmental impact. It is a preliminary list of the major potential sources of human health and environmental risk. Definitions for each of the characteristics follow the menu.

This menu can be used by agency personnel in two ways: (a) to provide a standard framework for focusing in on the most important environmental attributes of products, systems, and facilities, and determining which product is preferable based on those attributes, or (b) as a check-list of environmental issues to be considered when designing and acquiring systems or buildings. Not all of the environemental performance characteristics will apply to each product; indeed, in some cases, information on only a few key environmental

attributes may be needed to determine environmental preferability.

The menu of environmental performance characteristics suggests that two different approaches to soliciting information can be used. The first includes consideration of releases of pollutants that occur during the life-cycle of the product. In the research on product life-cycle assessments that have been conducted over the past several years, these releases are known as "inventory" items. Alternatively, the risks (or risk surrogates) associated with various life-cycle stages of a product can be identified. This approach seeks to identify actual environmental impacts rather than solely environmental releases. When calculating risks, general population (both environmental and human) exposures and occupational exposures need to be considered. Executive agencies may consider using both risk and release data in their decisions to purchase environmentally preferable products and services.

Additional guidance on how the menu may be used within the context of a particular product category as well as how the Ecological Priority Impacts Matrix and the List of Stressors Presenting High Risk (discussed below in Appendix D) may be applicable will be issued as part of specific guidances that will follow based on voluntary pilot acquisitions.

If vendors/offerors use the menu as a basis for making environmental marketing claims, they should conform to the Federal Trade Commission's Guides for Use of Environmental Marketing Claims (16 CFR 260.5). A summary of the FTC's Guides is included as Appendix D. As explained in the FTC guides, claims concerning a product's environmental performance need to be supported by environmental data provided by offerors and offerors are encouraged to have the information verified by a credible, independent third party certifier to provide product users, acquisition officials and program managers with the assurance that the information they are evaluating is accurate and scientifically sound.

Appendix B(1). Preliminary Menu of Environmental Performance Characteristics

A. Natural Resources Use

—Ecosystem impacts (endangered species, wetlands loss, fragile ecosystem, erosion, animal welfare etc.)
—Energy consumption (including source, if known)
—Water consumption
—Non-renewable resource consumption (>200 years)
—Renewable resource consumption (<200 years)
—Rapidly renewable resource consumption (<2 years)

B. Human Health and Ecological Stressors

—Bioaccumulative pollutants
—Ozone depleting chemicals
—Global warming gases
—Chemical releases (Toxics Release Inventory (TRI) list chemicals or others)
—Ambient air releases (other than TRI, including volatile organic compounds & particular matter)
—Indoor environmental releases (consumer and occupational)
—Conventional pollutants released to water
—Hazardous waste
—Non-hazardous solid waste (municipal solid waste, large volume waste, surface impoundments)
—Other stressors

C. Positive Attributes

—Recycled Content
—Recyclability
—Product Disassembly Potential
—Durability
—Reusability
—Other attributes

D. Hazard Factors Associated With Materials

—Human Health Hazards
  acute toxicity
  carcinogenicity
  developmental/reproductive toxicity
  immunotoxicity
  irritancy
  neurotoxicity
  sensitization
  other chronic toxicity
—Ecological Hazards
  aquatic toxicity
  avian toxicity
  terrestrial species toxicity
—Product Safety Attributes
  corrosivity
  flammability
  reactivity

Appendix B(2). Definitions for Terms in the Menu of Environmental Performance Characteristics

A. Natural Resource Use

(1) Ecosystem impacts: Adverse impacts on the ecosystem, e.g., endangered species, wetlands loss, fragile ecosystems, erosion.

(2) Energy consumption: The total amount of energy consumed. Different sources of energy are associated with different environmental impacts (e.g., petroleum consumption creates global warming gases while hydroelectric power may have localized site impacts on ecosystems and/or species diversity).

(3) Water consumption: Refers to the water resources that are consumed or used.

(4) Non-renewable resource consumption: Those resources consumed that are not renewable in 200 years (e.g., fossil fuels, minerals).

(5) Renewable resource consumption: Those resources consumed that are renewable in 2 to 200 years (e.g., timber-based products).

(6) Rapidly renewable resource consumption: Those resources consumed that are renewable in less than 2 years (e.g., grain-based feed stocks).

B. Human Health and Ecological Stressors

(1) Bioaccumulative pollutants: Those chemicals that bioconcentrate in the environment as described in the Significant New Use Rule for new chemicals. (See 40 CFR 721.3)

(2) Ozone depleting chemicals: Ozone depleting chemicals have been defined in the Protection of Stratospheric Ozone Final Rule, (58 FR 65018, December 10, 1993).

(3) Global warming gases: Global warming gases are listed in Climate Change 1992, The Scientific Report on the IPCC Scientific Assessment, Table A 2.1.

(4) Chemical releases: This refers to ambient releases of chemicals of concern such as those reported on the Toxics Release Inventory (TRI) of the Emergency Planning and Community Right-to-Know Act. The current list is reported in 40 CFR 372.65.

(5) Ambient air pollutants: Refers to pollutants for which ambient air quality standards have been developed (see 40 CFR 50.4–50.12). These include nitrogen dioxide, sulfur dioxide, ozone precursors, particulate matter, carbon monoxide and lead.

(6) Indoor environmental releases: This refers to releases to an indoor environment of chemicals of concern such as those reported on the TRI in both occupational and consumer settings.

(7) conventional pollutants: Conventional pollutants are defined in 40 CFR 401.16. These include biochemical oxygen demand, total suspended solids, fecal coliform, pH, and oil and grease.

(8) Hazardous waste: Quality of Resource Conservation and Recovery Act (RCRA) hazardous waste as defined in 40 CFR 261.3.

(9) Non-hazardous waste: Quantity of solid waste as defined in 40 CFR 261.3. Includes municipal solid waste, large volume (e.g., oil and gas, mining, etc.) waste and solid disposed of in surface impoundments.

(10) Other stressors: Any other stressors associated with the product or service but not captured elsewhere.

C. Positive Attributes

(1) Recycled content: Percentage of recovered material content (see Federal Trade Commission guidelines mentioned above for more details). Executive agencies are required to purchase EPA-designated items with recycled content (40 CFR part 247). Purchasers may want to consider whether the material contains pre-consumer or post-consumer recycled content. Post-consumer recycled content or material that would have otherwise been incinerated or landfilled is considered to be better for the environment than manufacturers' scrap material that would have, in any case, been incorporated into the product. Refer to FTC's "Guides for the Use of Environmental Marketing Claims."

(2) Recyclability: Refers to products or materials that can be recovered from or otherwise diverted from the solid waste stream for the purpose of recycling. It should be noted, however, that although technically most materials may be recyclable—i.e., processed and used—whether a product or a material is actually recycled depends to a large extent on the community availability of collection and use programs for the materials. Refer to FTC's "Guides for the Use of Environmental Marketing Claims."

(3) Product disassembly potential: Refers to the ease with which a product can be disassembled for maintenance, parts replacement, or recycling.

(4) Durability: Refers to the expected lifetime of the product.

(5) Reusability: Refers to how many times a product may be reused. Since reusable products, in general, may require more up

front costs than disposable products they are often subjected to a cost/benefit analysis in order to determine the payback period.

(6) Other attributes: Any other positive attributes that are associated with the product but are not listed here.

D. Hazard Factors Associated With Materials

Human Health Hazards

(1) Acute toxicity: The potential to cause adverse health effects from short-term exposure to a chemical substance.

(2) Carcinogenicity: Carcinogenicity is defined EPA using a weight-of-evidence approach (51 FR 33992, September 24, 1986). When quantification is possible, slope factors can also be used to express carcinogenic potency.

(3) Development/reproductive toxicity: EPA defines developmental toxicity as adverse effects on the developing organism that result from exposure prior to conception (either parent), during prenatal development, or postnatally to the time of sexual maturation (56 FR 63798, December 5, 1991). Reproductive toxicity is any adverse effect on an organism's ability to reproduce.

(4) Immunotoxicity: Any adverse effect on an organism's immune system that results from exposure to a chemical substance.

(5) Irritancy: Irritancy can be reported according to the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (29 CFR part 1910.1200) or using the Draize scale.

(6) Neurotoxicity: Any adverse change in the development, structure, or function of the central and peripheral nervous system following exposure to a chemical agent (59 FR 42272, August 17, 1994).

(7) Sensitization: Sensitization is an immunologically mediated cutaneous reaction to a substance. EPA test methods for evaluating sensitization potential are found in 40 CFR part 798.4100.

(8) Other chronic toxicity: The potential to cause an adverse effect on any organ or system following absorption and distribution to a site distant from the toxicants entry point.

Ecological Hazards

(1) Aquatic toxicity: The potential of a substance to have an adverse effect on aquatic species. Measurement methods for aquatic toxicity can be found in 40 CFR part 797, subpart B.

(2) Avian toxicity: The potential of a substance to have an adverse effect on avian species.

(3) Terrestrial species toxicity: The potential of a substance to have an adverse effect on terrestrial species other than man.

Product Safety Attributes

(1) Corrosivity: EPA defines dermal corrosion as the production of irreversible tissue damage in the skin following application of a test substance. Test methods for evaluating dermal corrosion can be found in 40 CFR 798.4470.

(2) Flammability: Flammability is defined by the OSHA Hazard Communication Standard (29 CFR 1910.1200) and ignitability is defined in 40 CFR part 261.21.

(3) Reactivity: As defined in 40 CFR 261.23.

Appendix C. Applying a Life-Cycle Perspective [9]

The life-cycle stages are represented in the graphic below. The "Design" heading below the life-cycle stages is meant to reinforce the fact that the most critical and effective time to address the environmental impacts of a product is in the design stage. Note that the pre-manufacturing stages should reflect environmental effects associated with raw materials, acquisition, intermediate processing, and all activities prior to manufacturing.

To ensure reduction of environmental impacts in as many of the life-cycle stages as possible, the following information is desirable: (1) a description of the environmental impacts at each life-cycle stage, and (2) an indication of at which stage(s) the greatest environmental impacts occur. Strategies can then be developed to reduce environmental impacts at that stage. For example, if the greatest impact occurs in the use stage, Executive agencies could develop strategies for proper maintenance or training. While the federal consumer may be tempted to focus on the last 2 stages, it is possible for environmental impacts to be greater in the first three stages.

FIGURE C–1.—LIFE-CYCLE STAGES

Design				
Pre-manufacture	Manufacture	Distribution/packaging	Use, reuse, & maintenance.	Waste management.

Appendix D. Summary of Federal Trade Commission Guides for Use of Environmental Marketing Claims [10]

Background

The Federal Trade Commission's Guides for the Use of Environmental Marketing Claims are based on a review of data obtained during FTC law-enforcement investigations, from two days of hearings the FTC held in July 1991, and from more than 100 written comments received from the public. Like all FTC guides, they are administrative interpretations of laws administered by the FTC. Thus, while they are not themselves legally enforceable, they provide guidance to marketers in conforming with legal requirements. The guides apply to advertising, labeling and other forms of marketing to consumers. They do not preempt state or local laws or regulations.

This Commission will seek public comment on whether to modify the guides after 3 years. In the meantime, interested parties may petition the Commission to amend the guides.

Basically, the guides describe various claims, note those that should be avoided because they are likely to be misleading, and illustrate the kinds of qualifying statements that may have to be added to other claims to avoid consumer deception. The claims are followed by examples that illustrate the points. The guides outline principles that apply to all environmental claims, and address the use of eight commonly-used environmental marketing claims.

General Concern

As for any advertising claims, the FTC guides specify that any time marketers make objective environmental claims—whether explicit or implied—they must be substantiated by competent and reliable evidence. In the case of environmental claims, that evidence often will have to be competent and reliable scientific evidence.

The guides outline four other general concerns that apply to all environmental claims. There are:

(1) Qualifications and disclosures should be sufficiently clear and prominent to prevent deception.

(2) Environmental claims should make clear whether they apply to the product, the package, or a component of either. Claims need not be qualified with regard to minor,

[9] It is recognized that it may be initially difficult to apply a full life-cycle perspective in determining and purchasing environmentally preferable products. However, despite the challenges presented by applying the life-cycle concepts, EPA strongly believes that the life-cycle framework offers the holistic and comprehensive perspective needed to address adequately the issue of environmental preferability. As efforts are made to apply the concepts more broadly, both in the private and public sector and as the work of those developing the methodology for establishing standards for life-cycle assessment continue, tools will evolve over time that can facilitate application of a life-cycle perspective to environmentally preferable purchasing. Until then, users of this guidance are encouraged to apply as much of a life-cycle perspective to their purchases of environmentally preferable products and services as possible.

[10] Excerpted from FTC Press Release announcing guidelines for environmental marketing claims.

incidental components of the product or package.

(3) Environmental claims should not overstate the environmental attribute or benefit. Marketers should avoid implying a significant environmental benefit where the benefit is, in fact, negligible.

(4) A claim comparing the environmental attributes of one product with those of another product should make the basis for the comparison sufficiently clear and should be substantiated.

(Summary of FTC Environmental Marketing Guidelines)

The guides then discuss particular environmental marketing claims. In most cases, each discussion is followed in the guides by a series of examples to illustrate how the principles apply to specific claims.

General environmental benefit claims. In general, unqualified general environmental claims are difficult to interpret and may have a wide range of meanings to consumers. Every express and material implied claim conveyed to consumers about an objective quality should be substantiated. Unless they can be substantiated, broad environmental claims should be avoided or qualified.

Degradable, biodegradable, and photodegradable. In general, unqualified degradability claims should be substantiated by evidence that the product will completely break down and return to nature, that is, decompose into elements found in nature within a reasonably short period of time after consumers dispose of it in the customary way. Such claims should be qualified to the extent necessary to avoid consumer deception about: (a) The product or package's ability to degrade in the environment where it is customarily disposed; and (b) the extent and rate of degradation.

Compostable. In general, unqualified compostable claims should be substantiated by evidence that all the materials in the product or package will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner in an appropriate composting program or facility, or in a home compost pile or device. Compostable claims should be qualified to the extent necessary to avoid consumer deception. (1) If municipal composting facilities are not available to a substantial majority of consumer or communities where the product is sold; (2) if the claim misleads consumers about the environmental benefit provided when the product is disposed of in a landfill; or (3) if consumers misunderstand the claims to mean that the package can be safely composted in their home compost pile or device, when in fact it cannot.

Recyclable. In general, a product or package should not be marketed as recyclable unless it can be collected, separated, or otherwise recovered from the solid waste stream for use in the form of raw materials in the manufacturer or assembly of a new product or package. Unqualified recyclable claims may be made if the entire product or package, excluding incidental components, is recyclable.

Claims about products with both recyclable and non-recyclable components should be adequately qualified. If incidental components significantly limit the ability to recycle a product, the claim would be deceptive. If, because of its size or shape, a product is not accepted in recycling programs, it should not be marketed as recyclable. Qualifications may be necessary to avoid consumer deception about the limited availability of recycling programs and collection sites if recycling collection sites are not available to a substantial majority of consumers or communities.

Recycled Content. In general, claims of recycled content should only be made for materials that have been recovered or diverted from the solid waste stream, either during the manufacturing process (pre-consumer) or after consumer waste (post-consumer). An advertiser should be able to substantiate that pre-consumer content would otherwise have entered the solid waste stream. Distinctions made between pre- and post-consumer content should be substantiated. Unqualified claims may be made if the entire product or package, excluding minor, incidental components, is made from recycled material. Products or packages only partially made of recycled material should be qualified to indicate the amount, by weight, in the finished product or package.

Source Reduction. In general, claims that a product or package has been reduced or is lower in weight, volume, or toxicity should be qualified to the extent necessary to avoid consumer deception about the amount of reduction and the basis for any comparison asserted.

Refillable. In general, an unqualified refillable claim should not be asserted unless a system is provided for: (1) the collection and return of the package for refill; or (2) the later refill of the package by consumers with product subsequently sold in another package. The claim should not be made if it is up to consumers to find ways to refill the package.

Ozone Safe and Ozone Friendly. In general, a product should not be advertised as "ozone safe," "ozone friendly," or as not containing CFCs if the product contains any ozone-depleting chemical. Claims about the reduction of a product's ozone-depletion potential may be made if adequately substantiated.

Appendix E—Establishing Core Environmental Values [Reserved]

Appendix F—Establishing Third Party Environmental Certification Programs [Reserved]

V. Public Record

A record has been established for this document under docket number "OPPTS-00149" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this document, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

List of Subjects

Environmental protection.

Dated: September 25, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95–24284 Filed 9–28–95; 8:45 am]

BILLING CODE [illegible]

[OPPTS–62150A; FRL–4980–3]

Guidance on Acquisition of Environmentally Preferable Products and Services; Notice of Meeting

AGENCY: Environmental protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: This Notice describes a process that EPA has established to solicit input from all interested parties on the proposed guidance that Executive agencies can use in determining the preference and purchase of environmentally preferable products and services. As a part of this process, EPA is announcing a public meeting to be held in October. This proposed guidance is being developed to implement section 503 of Executive Order on Federal Acquisition, Recycling and Waste Prevention. The proposed guidance in its entirety is published elsewhere in this issue of the **Federal Register.**

DATES: The meeting will take place on October 26 and 27, 1995, starting at 9:30 a.m. and ending each day at 5 p.m. unless concluded earlier. Registration will occur one hour before the meeting is scheduled to begin on both days. The second day will only proceed if there are more confirmed presenters than can be accommodated on the first day.

Requests to present oral testimony must be received on or before October 18, 1995, and will be scheduled on a first-come, first-served basis.

ADDRESSES: The meeting will be held at: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA, Telephone number: 703–418–1234. A small number of rooms have been set aside for those participants staying overnight. Reservations must be made by October 4, 1995, under "EPA's Public Meeting on Environmentally Preferable Products, " in order to get the special meeting rate.

FOR FURTHER INFORMATION CONTACT: Danielle Fuligni (7409), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 260–4172, Fax: (202) 260–0178,

e-mail:fuligni,danielle@pamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 20, 1993, President Clinton signed Executive Order 12873, entitled "Federal Acquistion, Recycling and Waste Prevention," (58 FR 5411, October 22, 1993). Section 503 of Executive Order 12873 requires EPA to "issue guidance that recommends principles that Executive agencies should use in making determinations for the preference and purchase of environmentally preferable products." The proposed guidance for implementing this provision is published elsewhere in this issue of the **Federal Register**.

II. Process

This public meeting represents another stop in EPA's effort to make the development of section 503 guidance a public process. As a part of this process, EPA also developed a "concept paper" that outlined preliminary thoughts on how the guidance might be structured and some guiding principles for implementation of section 503. The public was given an opportunity to comment on the concept paper, both in writing and at a public meeting held in February 1994.

EPA also held meetings with "stakeholders" to give interested parties an additional opportunity to present their views on how EPA should proceed in developing principles for Executive agencies to use when making determinations for the preference and purchase of environmentally preferable products. EPA will continue to solicit input from all interested persons and organizations as EPA finalizes the guidance and conducts pilot projects.

To schedule oral testimony at the public meeting and to obtain a copy of the proposed guidance, contact EPA's Public Hearing Hotline, 110 Hartwell Avenue, Lexington, MA 02173–3198; telephone (617) 674–7374. Callers will receive mail confirmation of their scheduled testimony and logistical information. Persons who wish to make oral presentations must restrict testimony to 7 minutes and are also expected to provide three written copies of their completed comments for inclusion in the official record. If interested parties are unable to attend the public meetings, they are invited to submit written comments to the Agency.

III. Approach

The Agency has been directed by Executive Order 12873 to develop an approach for Federal acquisition of environmentally preferable products that not only minimizes environmental burden, but also provides incentives to industry to continuously improve the environmental performance of products and services to the Federal government. Ideally, the approach would guide Federal agencies in comparing environmental performance among competing products and services, so that the environmental impact becomes a criterion like cost or performance against which Federal agencies may select products or services.

In implementing section 503 of the Executive Order, EPA proposes an approach that has two components. The first is issuance of a broad, umbrella guidance. Following this, additional guidances focussing on specific product categories will be issued based on pilot projects. These pilots will help EPA and other Executive agencies identify and develop the necessary tools, education, and training materials to facilitate the application of the general guidance to actual purchases of environmental preferable products.

Dated: September 20, 1995.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 95–24235 Filed 9–28–95; 8:45 am]

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federal register

Friday
September 29, 1995

Part X

Environmental Protection Agency

Guidance Implementing Executive Order 12969; Federal Acquisition; Community Right-to-Know; Toxic Chemical Release Reporting; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–400099; FRL–4977–9]

RIN 2070–ZA00

Guidance Implementing Executive Order 12969; Federal Acquisition; Community Right-to-Know; Toxic Chemical Release Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On August 8, 1995, President Clinton signed Executive Order (E.O.) 12969, mandating that each Federal agency include in contract solicitations as an eligibility criterion for competitive acquisition contracts expected to exceed $100,000, the requirement that Federal contractors ensure that Toxic Chemical Release Inventory Forms (Form Rs) are filed by their covered facilities for the life of the contract. The solicitation must direct offerors to include in their response to the solicitation a certification that the offeror will (if awarded the contract) ensure that its covered facilities file Form Rs for the life of the contract unless an exemption provided by the Executive Order applies. This Notice includes guidance for compliance with E.O. 12969.

DATES: Federal Agencies are required to comply with the provisions of Executive Order 12969, as interpreted by the guidance contained in this Notice, by October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Paul Schaffer, Mail Code 3802F, 401 M St., SW., Washington, DC 20460, in EPA's Office of Acquisition Management, 202–260–9032, for information with respect to contract issues raised by today's guidance. For specific questions concerning the Form R or reporting requirements (including applicability), contact David Arthur, Mail Code 7408, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–2301, e-mail: arthur.david@epamail.epa.gov, in EPA's Office of Pollution Prevention and Toxic Substances. For general information on section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA), contact the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1–800–535–0202 or 703–412–9877, Toll free TDD: 1–800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

On August 8, 1995, President William J. Clinton signed Executive Order (E.O.) 12969, entitled "Federal Acquisition and Community Right-to-Know" (60 FR 40989; August 10, 1995). E.O. 12969 initiates a new Federal procurement policy by stating that:

> Sharing vital information [on release and management of toxic chemicals] with the public has provided a strong incentive for reduction in the generation, and, ultimately, release into the environment, of toxic chemicals. . . .The efficiency of the Federal Government is served when it purchases high quality supplies and services that have been produced with a minimum impact on the public health and environment of communities surrounding government contractors. Savings associated with reduced raw materials usage, reduced use of costly, inefficient end-of-pipeline pollution controls, reduced liability and remediation costs from worker and community claims all serve to increase the economic and efficient provision of essential supplies and services to the government. . . . .
>
> Therefore, it is the policy of the executive branch in procuring supplies and services that, to ensure the economical and efficient procurement of Federal Government contracts, Federal agencies, to the greatest extent practicable, shall contract with companies that report in a public manner on toxic chemicals released to the environment.

The Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001–11050) (EPCRA) and the Pollution Prevention Act of 1990 (42 U.S.C. 13101–13109) (PPA) established programs to protect public health and the environment by providing the public with important information on the toxic chemicals being managed in waste streams or released into the air, land, and water in their communities by manufacturing facilities. The information required by section 313 of EPCRA, 42 U.S.C. 11023, and section 6607 of PPA, 42 U.S.C. 13106, is submitted annually to EPA and the States on a specific reporting form (Form R) and compiled in the publicly available Toxics Release Inventory (TRI).

To implement the procurement policy of E.O. 12969, each Federal agency is required to include in competitive acquisition solicitations for the award of contracts expected to exceed $100,000, the requirement that Federal contractors ensure that covered facilities file a Form R for covered activities for the life of the contract. In this regard, the solicitation shall direct offerors on affected Federal contracts to include in their response to the solicitation a certification that the offeror (if awarded the contract) will ensure that its covered facilities file a Form R for the life of the contract for covered activities unless an exemption provided by E.O. 12969 applies. The resulting contract also will contain a clause to this effect.

As described in Unit II. of this document, E.O. 12969 affects Federal contractors and prospective Federal contractors, including certain subcontractors, that own or operate facilities currently required to report under EPCRA section 313 and PPA section 6607. It is not intended to expand the types of facilities currently providing information for the TRI. Rather, it is to ensure that these contractor facilities report by making certification of such reporting a requirement of solicitations and contracts with the Federal government. Once the contract is awarded, failure to comply with the terms of the certification, which will become a part of the contract, may result in termination of the Federal contract or other appropriate action.

Unit II. provides a section-by-section analysis of and interpretive guidance for E.O. 12969, and Unit III. provides a model solicitation certification and contract clause that EPA recommends contracting officers include in subject solicitations and contracts. Finally, Unit IV. clarifies the relationship between the requirements of E.O. 12969 and the reporting requirements of EPCRA section 313 and PPA section 6607, and Unit V. discusses the inter-agency review process EPA used in the development of this guidance.

II. Section-by-Section Analysis and Interpretive Guidance

In the following paragraphs, EPA provides guidance on certain provisions of the E.O. EPA believes that those sections of the E.O. not discussed herein are self-explanatory.

Section 2-201. "All definitions found in EPCRA and PPA and implementing regulations are incorporated into this order. . . ."

EPCRA sections 313 and 329 (42 U.S.C. 11023 and 11049) and PPA section 6603 (42 U.S.C. 13102) define terms relevant to the reporting requirements. The EPCRA implementing regulations codify these and other definitions at 40 CFR parts 350 and 372. EPA's Toxic Chemical Release Inventory Reporting Form R and Instructions document further clarifies the statutory and regulatory definitions and is available from the EPCRA Hotline (1–800–535–0202).

Section 2-202. "Federal Agency means. . . ."

A "Federal agency" is equivalent to an "executive agency" as defined in 5 U.S.C. 105. For purposes of E.O. 12969

and this guidance, military departments as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

Section 2-204. "Toxic chemical means. . . ."

In passing EPCRA, Congress established a list of 320 chemicals and chemical categories by combining the Maryland Chemical Inventory Report List of Toxic or Hazardous Substances and the New Jersey Environmental Hazardous Substance List. Recognizing that the chemical list should be dynamic, Congress authorized EPA to add (or delete) a chemical or category through rulemaking at any time if the chemical meets (or does not meet) the statutory criteria listed in EPCRA section 313(d)(2). EPA may undertake to add or delete a chemical on its own initiative, or when petitioned by a State Governor or the public.

E.O. 12969 defines the universe of subject chemicals as those chemicals on the list described in section 313(c) of EPCRA, as it existed on the effective date of the E.O. Thus, E.O. 12969 could be read to effectively "freeze" on August 8, 1995, the list of toxic chemicals and chemical categories required to be reported by Federal contractors' covered facilities. However, E.O. 12969 is not intended to restrict EPA's authority under section 313(d) and (e) of EPCRA to add or delete chemicals by rulemaking from the list of chemicals as it existed on August 8, 1995. Consequently, EPA believes a reasonable reading of the E.O. is to permit the list of subject toxic chemicals to be modified to exclude those chemicals that are deleted and, similarly, to include those chemicals that are added, by EPA rulemaking pursuant to EPCRA section 313(d) and (e).

If E.O. 12969 were read to "freeze" the list of chemicals for which the covered facilities of a Federal contractor must submit Form Rs, those facilities would not be permitted to stop reporting for a chemical that EPA, under the authority of EPCRA section 313(d) and (e), deletes from the list on the ground that the chemical does not meet the statutory criteria for listing. EPA does not believe that E.O. 12969 is intended to result in such a situation.

In addition, if E.O. 12969 were read to "freeze" the list, Federal contractors would not be required to certify that their subject facilities will file the Form Rs for those chemicals that EPA adds to the list of toxic chemicals subsequent to August 8, 1995. However, the covered facilities of Federal contractors would nonetheless be required to file Form Rs on these added chemicals to comply with their EPCRA section 313 and PPA section 6607 reporting requirements. EPA believes that all toxic chemicals and chemical categories that are currently on or subsequently added to the list of toxic chemicals, based on the statutory listing criteria, potentially can affect human health or the environment. As such, EPA believes that certification by Federal contractors for these chemicals and chemical categories is appropriate and desirable because filing a Form R provides the public with important information on these toxic chemicals.

Accordingly, EPA interprets E.O. 12969 as requiring Federal agencies to require prospective Federal contractors (and first-tier subcontractors as defined below) to provide a certification, such as the model certification described below, for all toxic chemicals currently listed or added to the EPCRA 313 list, until such time as EPA deletes a toxic chemical through rulemaking, using the statutory criteria of EPCRA section 313(d)(2).

Section 2-206. "Federal contractor means. . . ."

For the purposes of E.O. 12969 and this guidance, a Federal contractor is that entity that has submitted the successful bid or proposal in response to a competitive acquisition solicitation, and that has one or more facilities that will be used in the performance of the contract located in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States has jurisdiction. A prospective Federal contractor (otherwise referred to in this guidance as an "offeror") is the entity that submits a bid or proposal in response to a competitive acquisition solicitation.

To the extent that an offeror or a Federal contractor has a facility that will provide the supplies or services in the performance of the contract but the facility is located outside of the above identified areas, that facility is not affected by E.O. 12969. When an offeror or Federal contractor is located outside the above identified areas, but has facilities that will provide the supplies or services that are located in the United States or its territories, the facilities are covered under E.O. 12969. Therefore, the prospective Federal contractor should be required to supply the certification for such covered facilities. EPA believes it is appropriate that the applicability of E.O. 12969 be determined based on where the facility(ies) providing the supplies or services under contract are located.

Also, EPA believes it appropriate and consistent with E.O. 12969 to require Federal agencies to apply the provisions of the E.O. to a first-tier subcontractor through the prime Federal contractor (i.e., first-tier subcontractors should certify to the prime contractor). For purposes of E.O. 12969, a first-tier subcontractor is an entity that is a supplier, distributor, vendor, or firm that furnishes supplies or services directly to or for the prime Federal contractor. Both prospective Federal prime contractors and first-tier subcontractors would certify only for those facilities that will provide the supplies or services in the performance of the contract. To the extent that a prime contractor (or offeror) is not subject to the provisions of E.O. 12969, no prospective or actual subcontracts awarded under the prime contract will be subject to the provisions of E.O. 12969.

EPA believes that the provisions of E.O. 12969 apply to offerors, Federal contractors, and first-tier subcontractors that will be or are providing commercial items under contract. Since passage of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355), Federal agencies have been working to streamline the acquisition of commercial items, and EPA supports these efforts. In this regard, the final rule for the acquisition of commercial items includes a contract clause (See Federal Acquisition Regulations (FAR), 48 CFR 52.212-4, published September 18, 1995; 60 FR 48206) which will be included in contracts for commercial items:

(q) *Other compliances.* The Contractor shall comply will all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

This language will be included in the contract by a new Standard Form 1449--Solicitation/Contract Order for Commercial Items.

Because EPA interprets E.O. 12969 to apply to the acquisition of commercial items, EPA believes that where the resulting contract includes the clause 52.212-4, the contractor must comply with E.O. 12969. Therefore, in contracts for the acquisition of commercial items, EPA does not believe that an additional solicitation certification or contract clause is necessary to implement E.O. 12969. Thus, solicitation certifications and contract clauses such as the models presented in Unit III. of this document need not be included in solicitations or Federal contracts for commercial items.

Section 3-301. "Each Federal agency shall, to the maximum extent practicable, include. . . ."

Each Federal agency, shall, to the maximum extent practicable, include in competitive acquisition solicitations that will result in the award of a contract expected to exceed $100,000 (including all options), the certification described in sections 3-303 and 4-404 of the E.O. relating to the requirement for the contractor's facilities to file a Form R. If the contract is expected to exceed $100,000, the prospective Federal contractor must complete the certification in order to be eligible for the award of the contract.

EPA believes that the E.O. should be read to require the prospective Federal contractor to certify in its response to the solicitation that its covered facilities meeting the applicability requirements detailed in EPCRA section 313 on the date of issuance of E.O. 12969, will file (and continue to file for the life of the contract) a Form R, for each toxic chemical manufactured, processed, or otherwise used at each facility used in the performance of the contract. Offerors who believe that all of the facilities that will be used in the performance of the contract are currently exempt from the reporting requirements of EPCRA section 313 and PPA section 6607 must certify to this effect in its response to the solicitation and must certify that, should such an exemption cease to apply for a subject facility, they will timely file the appropriate Form R(s) during the life of the contract.

The requirements for the certifications described above (and a model of which is presented in Unit III.) should be included in all competitive acquisition solicitations issued October 30, 1995 expected to result in a contract with a Federal contractor exceeding $100,000, including all options, and will be incorporated into the resultant Federal contract by a contract clause.

The certification must be completed by the offeror on behalf of all of its facilities that will provide supplies or services in the performance of the Federal contract. Because offerors may own or operate more than one facility, there may be situations where some of its facilities are subject to the filing and reporting requirements of the E.O. while others are exempt. In these cases, the offeror would not be able to certify that it is exempt under paragraph (b) of the model certification described below in Unit III. unless all of its facilities that will provide supplies or services in the performance of the contract meet at least one of the criteria for exemption in paragraph (b) of the certification.

The certification requirement applies to all prime Federal contracts and first-tier subcontracts for non-commercial supplies and services where the contract or subcontract is expected to exceed $100,000. The prime Federal contractor shall include in all competitive solicitations and resulting subcontracts (for first-tier subcontracts) for non-commercial items that are expected to exceed $100,000, a certification and contract clause such as the models presented in Unit III below. As stated previously, a separate contract clause and certification are not required in contracts for the acquisition of commercial items because these contracts will contain the clause set forth in 48 CFR 52.212-4.

The certification requirement shall also apply to competitive section 8(a) solicitations and contract awards expected to exceed $100,000 (including all options) that are expected to exceed $100,000 which are under section 8(a) of the Small Business Act, 15 U.S.C. 637(a).

Section 3-302. "The Federal contractors to the. . . ."

The certification requirement should apply only to those offerors (prospective prime contractors and first-tier subcontractors) who own or operate facilities to be used in performance of the proposed contract having Standard Industrial Classification Code (SIC) designations of major groups 20 through 39 as described in EPCRA section 313(b)(1) as they existed on the date of issuance of E.O. 12969. SIC Code major group designations 20 through 39 represent the manufacturing sector and include establishments engaged in the mechanical or chemical transformation of materials or substances into new products. These establishments are usually described as plants, factories and mills. It is important to note that assembly plants also are normally included within major groups 20 through 39.

Section 3-303. "Each Federal agency shall find that. . ."

The reporting requirements of E.O. 12969 are not applicable to a facility within a SIC code major group designation 20 through 39, if any of the criteria in clauses (a) through (c) of section 3-303 apply to the facility. Accordingly, if a prospective Federal contractor can certify that each of its covered facilities that will be used in the performance of the contract meets at least one of the criteria in clauses (a) through (c), none of the contractor's facilities would be required to submit data pursuant to E.O. 12969 and the offeror can certify to this effect. However, the Federal contractor would notify the contracting officer if circumstances change such that, for example, a covered facility supporting the contract is no longer exempt. The solicitation and contract should reflect this requirement and the requirement that the Federal contractor then ensure that its covered facility(ies) supporting the contract file the information required by E.O. 12969.

Persons who are unsure of the applicability of these criteria should review the implementing regulations found at 40 CFR part 372, as well as EPA's "Toxic Chemical Release Inventory Reporting Form R and Instructions" (Revised 1994 Version, EPA 745k–95–051).

On November 30, 1994 (59 FR 61448), EPA issued a final rule establishing an alternate threshold under the authority of EPCRA section 313(f)(2) (40 CFR part 372). Starting with the 1995 reporting year, facilities that exceed the manufacture, process, or otherwise use threshold established under EPCRA section 313(f)(1) do not have to file a Form R if the facility manufactures, processes, or uses 1 million pounds or less per year of the toxic chemical and the facility estimates that its total reportable amount of the toxic chemical in waste streams is 500 pounds or less. (The total reportable amount of the toxic chemical in waste streams includes the quantity released to the environment; the quantity recycled, combusted for energy recovery, treated or disposed on-site; and the quantity transferred off-site for recycling, combustion for energy recovery, treatment, disposal or other release.) Facilities meeting the alternate threshold criteria are able to submit a much shorter form to EPA indicating that the facility met the requirements of the alternate threshold.

Because the alternate threshold of 1 million pounds was established under the authority of EPCRA section 313(f)(2), a prospective Federal contractor with facilities that use the alternate threshold should certify consistent with section 3303(c), that is, the reporting thresholds established under EPCRA section 313(f) have not been met.

Section 3-304. "Each Federal agency shall require. . . ."

See section 2-204.

Section 3-305. "Each Federal agency may amend. . . ."

This provision is self-explanatory. The decision to amend existing contracts rests solely with each Federal agency.

Section 3-306. "Consistent with Title IV of the Federal Acquisition Streamlining Act of 1994 (FASA). . . ."

Title IV of the Federal Acquisition Streamlining Act (FASA) raised the simplified acquisition threshold to $100,000 (i.e., contracts for the purchase of goods and services that have an anticipated value greater than $2,500 but not greater than $100,000 are subject to simplified acquisition procedures). To be consistent with FASA, EPA believes that only competitive acquisition solicitations that are expected to result in a contract exceeding $100,000, including options, should include the certifications required by E.O. 12969 (the certification should also be incorporated into the resultant contract).

Section 4-401. "Not later than September 30, 1995, the EPA shall publish. . . ."

The publication of today's Notice satisfies the requirement of this section.

Section 4-402. "Within 30 days of the issuance of the guidance. . . ."

All Federal agencies must comply with the provisions of the E.O by October 30, 1995, and the E.O. requires that these provisions be implemented and incorporated into the Federal Acquisition Regulations (FAR). The FAR Secretariat has assigned the effort to amend the FAR pursuant to E.O. 12969 as FAR Case 95-305.

Once FAR Case 95-305 is published as an interim final rule, Federal agencies, offerors, and Federal contractors must follow those regulations. In the event that FAR Case 95-305 is not published as an interim rule by October 30, 1995, EPA is providing this Notice, including a model certification and contract clause, to assist Federal agencies in their compliance efforts. Pending implementation in the FAR, EPA encourages certifications such as this model to be included in all competitive solicitations (and resultant contracts) expected to result in a contract exceeding $100,000 that are issued on or after 30 days following publication of this guidance in the **Federal Register** in order to comply with E.O. 12969.

Section 4-403. "For all contracts expected to exceed $500,000. . . ."

E.O. 12969 requires compliance by Federal agencies "to the greatest extent practical"; however, it makes clear that impracticability determinations should not be made lightly. Because the facilities of offerors likely to be affected by E.O. 12969 already have an obligation to report under EPCRA section 313 and PPA section 6607, it is difficult to foresee instances when it would be impracticable for a Federal agency to include a TRI certification requirement as an eligibility criterion in its affected solicitations.

However, E.O. 12969 does recognize that there are or may be unforeseen circumstances that would make compliance untenable. For smaller affected contracts (those not expected to exceed $500,000, including options), the contracting agency should make impracticability determinations, for either an individual or class of contracts, weighing the reasons for believing that inclusion of the certification is impracticable for a particular solicitation against the compelling reasons for E.O. 12969. Where appropriate, agencies should consider modifications to the solicitation that would then make inclusion of the certification acceptable.

For larger contracts (those expected to exceed $500,000, including options), E.O. 12969 imposes a consultation requirement on the contracting agency before a final impracticability determination can be made. Each Federal agency shall notify and consult with the Director of the Environmental Assistance Division within EPA's Office of Pollution Prevention and Toxic Substances (Mail Code 7408, 401 M St., SW., Washington, DC 20460) when the agency believes it is not practicable to include the certification requirement in the solicitation. This consultation should occur before the Agency's final determination on inclusion of the certification in the solicitation. EPA will continue to work with other agenices to reduce any burden associated with this consultative process.

A Federal agency's determination that including the certification requirement in a solicitation is impracticable does not in any manner waive the Federal contractor facility's responsibility to comply with the reporting provisions of EPCRA and the PPA.

Section 4-404. "Each Federal agency shall require. . ."

For a discussion of the certification requirements, see the discussion for sections 3-301 through 3-303 above. It is important to note that on or before July 1 of each year is the deadline for submitting EPCRA and PPA data for the previous calendar year. For example, Form Rs submitted on or before July 1, 1996, cover the period January 1, 1995 through December 31, 1995. E.O. 12969 requires offerors to certify that their subject facilities will file the necessary Form Rs, including all information required under EPCRA and PPA, on or before the next July 1 after the date on which a contract is awarded.

Currently, contractor facilities affected by this E.O. are already submitting reports because of their obligations under EPCRA section 313 and PPA section 6607. This may not always be the case. Therefore, EPA strongly encourages appropriate personnel at any facility owned or operated by a potential Federal contractor to maintain the information necessary to complete and submit Form Rs for the toxic chemicals reportable under E.O. 12969 for the previous calendar year. This will greatly ease compliance with section 4-404(b) of the E.O. should the contractor obtain a contract with the Federal Government.

Section 4-405. "Information submitted to the EPA. . . ."

Information submitted to EPA pursuant to E.O. 12969 is subject to the trade secret protections provided by EPCRA section 322, 42 U.S.C. 11042. EPCRA section 322 allows an owner or operator to withhold only "the specific chemical identity (including chemical name and other specific identification)" from TRI reports.

Regulations implementing the trade secret provisions of EPCRA section 322 are codified at 40 CFR part 350. Under the provisions of 40 CFR part 350, EPA reviews the validity of a trade secret claim if the Agency receives a public request for disclosure of information claimed as chemical identity, or at any time if "EPA desires to determine whether chemical identity information claimed as trade secret is entitled to trade secret treatment, even though no request for release of the information has been received." In practice, EPA routinely reviews all trade secret claims relating to TRI reports.

Under the authority of E.O. 12969, EPA will review all claims for trade secret protection submitted by Federal contractors. If EPA determines that the contractor's claim of trade secrecy is invalid (following the review, appeals, and notification processes described in 40 CFR part 350), EPA will make the Form R available to the public and will include the information in the TRI data base.

Section 4-406. "When the Administrator determines. . . ."

If EPA determines that a Federal contractor (or first-tier subcontractor) has inaccurately, incompletely, or falsely certified as to its covered facility's compliance with the E.O. or that a Federal contractor's (or subcontractor's) covered facility has deliberately not filed the Form R or deliberately filed incomplete information, EPA may recommend to the head of the contracting agency a termination of the affected contract for the convenience of the Government or

other appropriate action (for subcontractors, EPA may recommend to the prime contractor that it consider a termination of the subcontract for convenience or other appropriate action). Although a Contracting Officer is not obligated to actually determine compliance or non-compliance with the requirements of the E.O., that individual should forward to EPA any information it receives regarding non-compliance.

Section 4-406. "Upon request and to the extent practicable, the Administrator shall provide technical advice. . . ."

This provision is self-explanatory. However, see the "FOR FURTHER INFORMATION CONTACT" unit of this Notice for names and addresses of EPA contacts.

Section 5-502. "This Order is not intended, and should not be construed, to create any right or benefit. . . ."

Executive Order 12969 does not create additional rights or benefits for private parties and does not allow for private rights of action to ensure agency compliance. While E.O. 12969 provides other mechanisms for compliance, the right to sue a Federal agency for failure to appropriately include the certifications required by E.O. 12969 in contract solicitations is not one of them. However, E.O. 12969 in no manner undermines any opportunity provided by EPCRA or PPA to bring an action against a Federal contractor or its facilities and subcontractors otherwise required to report for failure to comply with the reporting requirements of EPCRA section 313 or PPA section 6607.

Section 5-503. "This order shall be effective immediately. . . ."

Although E.O. 12969 is effective immediately (i.e., August 8, 1995), Federal agencies are not required by the E.O. to include a certification statement implementing the E.O. in affected solicitations until October 30, 1995.

III. Model Solicitation Certification and Contract Clause

Models of the solicitation certification and the contract clause required by E.O. 12969 are presented below. The FAR Secretariat has assigned the effort to amend the FAR pursuant to E.O. 12969 as FAR Case 95-305. Until the FAR Case is published as an interim rule in the **Federal Register**, EPA encourages Federal agencies to include, pursuant to E.O. 12969, the model solicitation and contract clause discussed herein in all competitive solicitations (and resultant contracts) expected to result in a contract exceeding $100,000 that are issued on or after 30 days following publication of this guidance in the **Federal Register.**

Instructions for Use of the Model Certification and Contract Clause:

For competitive solicitations for the acquisition of noncommerical items issued on or after October 30, 1995 that are expected to result in the award of a contract exceeding $100,000, including all options, EPA encourages Federal agencies to include in the solicitation the certification (or the substantial equivalent) as shown below. In addition, each Federal agency is encouraged to include in the resultant contract the contract clause shown below or the substantial equivalent.

Model Certification of Filing Toxic Chemical Release Inventory Reporting Form (Form R).

Prescription for the Provision:

The Contracting Officer should insert the following provision in all competitive solicitations for non-commercial items (including competitive 8(a) solicitations) where the resultant contract is expected to exceed $100,000, including all options.

Certification of Filing Toxic Chemical Release Inventory Reporting Form (Form R)

The following certification shall be completed by the offeror, who certifies for all of its covered facilities that will be used in the performance of this proposed contract. Under EPCRA section 313 and PPA section 6607, each facility within Standard Industrial Classification Code designation of major groups 20-39 as in effect on July 1, 1985 (and currently codified at 48 CFR 19.102) meeting the reporting requirements files a Form R. If none of the offeror's facilities that will be used in the performance of this proposed contract currently are subject to the Form R reporting requirements because they are not with Standard Industrial Classification (SIC) code designations of major groups 20-39 (as in effect on July 1, 1985), the offeror should check box (e). This would complete the offeror's certification requirements. Further, if all of the offeror's facilities that will be used in the performance of this proposed contract meet at least one of the criteria in paragraph (b) below, the offeror should check the appropriate box under (b) to certify to that effect. This also would complete the offeror's certification requirements. For offerors with more than one facility, however, there may be situations where some of its facilities are subject to the Form R filing and reporting requirements and others are exempt. In these cases, the offeror cannot certify that it is exempt under paragraph (b) below unless all of its covered facilities meet at least one of the criteria in paragraph (b) of the certification.

(a) The Offeror, by signing this offer, expressly certifies and agrees that:

If awarded a Contract resulting from this solicitation, its covered facilities that will be used in the performance of this proposed contract will file (and continue to file for the life of the contract), unless otherwise exempt as stated below in paragraph (b)(1)-(3), a Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA, 42 U.S.C. 11023(a) and (g) and section 6607 of PPA, 42 U.S.C. 13106, for each toxic chemical manufactured, processed, or otherwise used by the offeror at a facility as described in section 313 of EPCRA, 42 U.S.C. 11023, and section 6607 of PPA, 42 U.S.C. 13106. The offeror further agrees and certifies that during the period of performance of this proposed contract, its covered facilities that will be used in the performance of this proposed contract will file a Form R annually on or before July 1 (for the prior calendar year) with the United States Environmental Protection Agency and each appropriate State pursuant to section 313(a) and (g) of EPCRA; or

(b) To the best of its knowledge and belief, none of its covered facilities that will be used in the performance of this proposed contract are currently subject to the filing and reporting requirements set forth in paragraph (a) above because such facilities (the offeror must check all of the appropriate boxes):

[ ] (1) Do not manufacture, process or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023 (c); or

[ ] (2) Do not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C.11023(b)(1)(A); or

[ ] (3) Do not exceed the reporting thresholds, including the alternative threshold established in 40 CFR 372.27, of toxic chemicals established under EPCRA, 42 U.S.C. 11023(f).

(c) If awarded a Contract resulting from this solicitation, and circumstances change during the life of the Contract such that, for example, any of its facilities that will be used in the performance of this proposed contract become subject to E.O. 12969 because none of the exemptions in paragraph (b) above any longer apply (or it no longer is subject to E.O. 12969 reporting and filing requirements) it will provide written notice to the Contracting Officer, and if required, its facility(ies) to be used in the performance of this proposed contract will file and continue to file for the life of the contract a Form R as described in paragraph (a).

(d) If awarded a Contract resulting from this solicitation, it shall include a

certification substantially the same as this certification in every competitive solicitation for a first tier subcontract expected to be greater than $100,000 where the subcontract is not for "commercial items" as that term is defined in Part 2 of the FAR.

[ ] (e) It does not own or operate any facilities that will be used in the performance of this proposed contract having Standard Industrial Classification Code designations of major groups 20 through 39 as identified on July 1, 1985, (and currently contained in FAR section 19.102) consistent with EPCRA section 313(b)(1). If, however, the offeror is awarded the contract, and the status of any of its facilities used in the performance of this contract changes during the life of the contract, it will provide written notice to the Contracting Officer, and if required, complete this certification. Further, the offeror will include a certification substantially the same as this certification in all competitive solicitations for first-tier subcontracts for noncommercial items expected to exceed $100,000.

(f) This certification concerns a matter within the jurisdiction of an agency of the United States and that making a false, fictitious, or fraudulent certification may result in criminal prosecution under Title 18, United States Code, Section 1001, and/or administrative action under the Program Fraud Civil Remedies Act, Title 31, United States Code, Sections 3801-3812. Accordingly, the offeror expressly certifies the truthfulness and accuracy of the contents of this certification.

(End of Provision)

The information provided on the Toxic Chemical Release Form filed with EPA shall be subject to the trade secret protection provided by section 322 of EPCRA, 42 U.S.C. 11042. Information that is not trade secret shall be made available to the public pursuant to sections 313(h) and (j) of EPCRA.

MODEL TOXIC CHEMICAL RELEASE REPORTING REQUIREMENTS CLAUSE

Prescription for clause: The Contracting Officer shall include this clause in all competitively awarded contracts for noncommercial items (including competitive 8(a) awards) in excess of $100,000 (including all options).

Toxic Chemical Release Invnetory Reporting

(a) As used in this clause, "Toxic Chemical Release Inventory Reporting," the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. 11001–11050) (EPCRA) and the Pollution Prevention Act of 1990 (42 U.S.C. 13101–13109) (PPA), established programs to protect public health and the environment. Under these Acts, certain businesses are required to submit reports each year on the amounts of toxic chemicals their facilities release into the environment.

(b) The contractor shall comply, during the life of the contract, with the certification in the solicitation entitled, "Certification of Filing Toxic Chemical Release Inventory Reporting Form (Form R)," which is expressly incorporated into the contract by reference.

(c) First tier subcontractors.--The Contractor shall include a certification substantially the same as the certification identified in paragraph (b) above in competitive solicitations for first tier subcontracts where the resulting subcontract award is expected to be greater than $100,000 and is not for "commercial items" as that term is defined in Part 2 of the Federal Acquisition Regulation. Also, the Contractor shall insert in all such first tier subcontracts a clause substantially the same as this clause without this paragraph (c).

(d) Remedies.--If the Contractor inaccurately, incompletely or falsely certified as to a facility's compliance with the reporting requirements of EPCRA section 313 and PPA section 6607, or if any of the Contractor's facilities has deliberately not filed a Toxic Chemical Release Form, or deliberately not submitted complete information, the Contracting Officer may terminate the Contract for convenience or take other appropriate action.

(End of Clause)

IV. Relationship Between E.O. 12969 and EPCRA/PPA Reporting Requirements

Nothing in E.O. 12969 or this guidance replaces or obviates the obligation of a facility owner or operator to comply with the reporting and recordkeeping requirements of EPCRA section 313, PPA section 6607, and EPA's implementing regulations at 40 CFR part 372. Although E.O. 12969 establishes a $100,000 applicability threshold, it is important for the regulated community to recognize that no such threshold exists with respect to the reporting or recordkeeping requirements of EPCRA section 313 or PPA section 6607.

V. Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this is a "significant regulatory action," because this Guidance may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. This Guidance was submitted to OMB for review under the Executive Order. In addition, EPA distributed a draft guidance to other agencies for their review and comment. Any changes made during OMB review have been documented in the public record.

List of Subjects

Environmental protection and Community right-to-know.

Dated: September 25, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95–24214 Filed 9–28–95; 8:45 am]

BILLING CODE 6560–50–F

federal register

Friday
September 29, 1995

Part XI

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds; Final Rule

4310–55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AC78

Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits for general waterfowl seasons and those early seasons for which States previously deferred selection. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule will permit taking of designated species during the 1995–96 season.

EFFECTIVE DATE: September 29, 1995.

ADDRESSES: Comments received will be available for public inspection during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240, (703) 358-1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1995

On March 24, 1995, the Service published for public comment in the **Federal Register** (60 FR 15642) a proposal to amend 50 CFR part 20, with comment periods ending July 21 for early-season proposals and September 4 for late-season proposals. Due to some unforeseen and uncontrollable publishing delays in the proposed early- and late-season regulations frameworks, the Service extended the public comment period to July 31 for early seasons and September 7 for late seasons. These regulations would be proposed for certain designated members of the avian families Anatidae (ducks, geese, and swans); Columbidae (doves and pigeons), Gruidae (cranes); Rallidae (rails, coots, moorhens, and gallinules); and Scolopecidae (woodcock and snipe). These species are designated as "migratory game birds" in conventions between the United States and several foreign nations for the protection and management of these birds. All other birds designated as migratory (under 10.13 of Subpart B of 50 CFR Part 10) in the aforementioned conventions may not be hunted. On June 16, 1995, the Service published for public comment a second document (60 FR 31890) which provided supplemental proposals for early- and late-season migratory bird hunting regulations frameworks. On June 22, 1995, a public hearing was held in Washington, DC, as announced in the March 24 and June 16 **Federal Registers**, to review the status of migratory shore and upland game birds. Proposed hunting regulations were discussed for these species and for other early seasons. On July 21, 1995, the Service published in the **Federal Register** (60 FR 37754) a third document in the series of proposed, supplemental, and final rulemaking documents which dealt specifically with proposed early-season frameworks for the 1995–96 season. On August 3, 1995, a public hearing was held in Washington, DC, as announced in the March 24, June 16, and July 21 **Federal Registers**, to review the status of waterfowl. Proposed hunting regulations were discussed for these late seasons. On August 28, 1995, the Service published a fourth document (60 FR 44463) which dealt specifically with proposed frameworks for the 1995–96 late-season migratory bird hunting regulations. The fifth document in the series, published August 29, 1995 (60 FR 45020), contained final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits for 1995–96. On August 31, 1995, the Service published in the **Federal Register** (60 FR 45628) a sixth document consisting of a final rule amending subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas, and limits for early seasons. On September 27, 1995, the Service published a seventh document in the **Federal Register** consisting of final late-season frameworks for migratory game bird hunting regulations, from which State wildlife conservation agency officials selected late-season hunting dates, hours, areas, and limits for 1995-96. The final rule described here is the eighth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending subpart K of 50 CFR part 20 to set hunting seasons, hours, areas, and limits for species subject to late-season regulations and those for early seasons that were previously deferred.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)," filed with EPA on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341). However, this programmatic document does not prescribe year-specific regulations; those are developed annually. The annual regulations and options are being considered in the Environmental Assessment, "Waterfowl Hunting Regulations for 1995," which is available upon request.

Endangered Species Act Consideration

In August 1995, the Division of Endangered Species concluded that the action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats. Hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for inspection in the Division of Endangered Species and the Office of Migratory Bird Management.

Regulatory Flexibility Act; Executive Order (E.O.) 12866 and the Paperwork Reduction Act

In the **Federal Register** dated March 24, 1995 (60 FR 15642), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing an Analysis of Regulatory Effects and an updated Final Regulatory Impact Analysis (FRIA), and publication of a summary of the latter. Although a FRIA is no longer required, the economic analysis contained in the FRIA was reviewed and the Service determined that it met the requirements of E.O. 12866. In addition, the Service prepared a Small Entity Flexibility Analysis, under the Regulatory Flexibility Act (5 U.S.C. 601 et seq), which further document the significant beneficial economic effect on a substantial number of small entities.

This rule was reviewed under E.O. 12866.

These regulations contain no information collections subject to OMB review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). However, the Service does utilize information acquired through other various information collections in the formulation of migratory game bird hunting regulations. These information collection requirements have been approved by OMB and assigned clearance numbers 1018–0005, 1018–0006, 1018–0008, 1018–0009, 1018–0010, 1018–0015, 1018–0019, and 1018–0023.

Authorship

The primary author is Ron W. Kokel, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: September 26, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

PART 20—[AMENDED]

For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K is amended as follows:

1. The authority citation for part 20 is revised to read as follows:

AUTHORITY: 16 U.S.C. 703-711; 16 U.S.C. 712; and 16 U.S.C. 742 a—j.

BILLING CODE 4310-55-F

Note - The following annual regulations provided for by §§20.104, 20.105, 20.106, 20.107, and 20.109 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

2. Section 20.104 is amended as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 29 and September 27 Federal Registers.

NOTE: The following seasons are in addition to the seasons published previously in the August 31, 1995, Federal Register (60 FR 45628).

	Sora & Virginia Rails	Clapper & King Rails	Woodcock	Common Snipe
Daily bag limit	25 (1)	15 (2)	5 (3)	8
Possession limit	25 (1)	30 (2)	10 (3)	16
ATLANTIC FLYWAY				
. . . . .				
Massachusetts (5)	Sept. 1-Nov. 9	Closed	Oct. 14-Nov. 25	Sept. 1-Dec. 16
. . . . .				
Vermont	Closed	Closed	Oct. 1-Nov. 14	Oct. 1-Dec. 9
MISSISSIPPI FLYWAY				
. . . . .				
Tennessee				
Reelfoot Zone	Nov. 11-Nov. 12 & Dec. 5-Jan. 20	Closed	Oct. 14-Dec. 17	Nov. 14-Feb. 28
State Zone	Dec. 2-Dec. 24 & Dec. 26-Jan. 20	Closed	Oct. 14-Dec. 17	Nov. 14-Feb. 28
Wisconsin				
North Zone	Sept. 30-Oct. 8 & Oct. 14-Nov. 23	Closed	Sept. 16-Nov. 19	Sept. 30-Oct. 8 & Oct. 14-Nov. 23
South Zone	Sept. 30-Oct. 8 & Oct. 17-Nov. 26	Closed	Sept. 16-Nov. 19	Sept. 30-Oct. 8 & Oct. 17-Nov. 26
CENTRAL FLYWAY				
. . . . .				
New Mexico (15)				
North Zone	Oct. 21-Nov. 10 & Nov. 21-Jan. 20	Closed	Closed	Oct. 21-Nov. 10 & Nov. 21-Jan. 21
South Zone	Oct. 31-Jan. 20	Closed	Closed	Oct. 31-Jan. 21
. . . . .				
Texas	Sept. 16-Sept. 24 & Nov. 18-Jan. 17	Sept. 16-Sept. 24 & Nov. 18-Jan. 17	Nov. 25 Jan. 31	Oct. 21-Feb. 4
Wyoming	Sept. 16-Nov. 18	Closed	Closed	Sept. 16-Dec. 17
PACIFIC FLYWAY				
Arizona (16)				
North Zone	Closed	Closed	Closed	Oct. 13-Jan. 13
South Zone	Closed	Closed	Closed	Oct. 13-Oct. 22 & Oct. 31-Jan. 21
California	Closed	Closed	Closed	Oct. 7-Jan. 21
. . . . .				
Nevada				
Clark County	Closed	Closed	Closed	Nov. 4-Jan. 21
Rest of State	Closed	Closed	Closed	Oct. 14-Jan. 14
New Mexico (15)	Oct. 14-Oct. 29 & Nov. 6-Jan. 20	Closed	Closed	Oct. 14-Oct. 29 & Nov. 6-Jan. 21

	Sora & Virginia Rails	Clapper & King Rails	Woodcock	Common Snipe
Oregon				
Zone 1	Closed	Closed	Closed	Oct. 14-Jan. 14
Zone 2	Closed	Closed	Closed	Oct. 7-Jan. 7
Utah				
Zone 1	Closed	Closed	Closed	Oct. 7-Jan. 14
Washington				
East Zone	Closed	Closed	Closed	Oct. 14-Jan. 21
West Zone	Closed	Closed	Closed	Oct. 14-Jan. 14
Wyoming	Sept. 16-Nov. 18	Closed	Closed	Sept. 16-Dec. 17

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these species.
(2) All bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all States.
(3) In States of the Atlantic Flyway, the woodcock bag limit is 3 daily and 6 in possession.
(6) In Massachusetts, the sora bag limit is 5 daily and 10 in possession; the Virginia rail bag limit is 10 daily and 20 in possession.

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(15) In New Mexico, the rail limits are 10 daily and 10 in possession.
(16) In Arizona, Ashurst Lake in Unit 5B is closed to common snipe hunting.

3. Section 20.105 paragraph (a) is amended, paragraph (b) is revised, and paragraph (e) is added to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 29 and September 27 Federal Registers.

(a) Common Moorhens and Purple Gallinules
(Atlantic, Mississippi, and Central Flyways)

NOTE: The following seasons are in addition to the seasons published previously in the August 31, 1995, Federal Register (60 FR 45628). The zones named in this paragraph are the same as those used for setting duck seasons.

	Season Dates	Limits Bag	Limits Possession
ATLANTIC FLYWAY			
	* * * * *		
Georgia	Nov. 22-Nov. 26 &	15	30
	Dec. 7-Jan. 20	15	30
	* * * * *		
Virginia	Oct. 11-Oct. 14 &	15	30
	Nov. 21-Nov. 25 &	15	30
	Dec. 11-Jan. 20	15	30
West Virginia			
Zone 1	Oct. 2-Oct. 14 &	15	30
	Dec. 15-Jan. 20	15	30
Zone 2	Oct. 2-Oct. 14 &	15	30
	Nov. 24-Dec. 30	15	30
MISSISSIPPI FLYWAY			
	* * * * *		
Michigan			
North Zone	Sept. 30-Nov. 18	15	30
Middle Zone	Oct. 7-Nov. 25	15	30
South Zone	Oct. 14-Dec. 2	15	30
Minnesota (2)	Sept. 30-Nov. 18	15	30
	* * * * *		
Tennessee			
Reelfoot Zone	Nov. 11-Nov. 12 &	15	30
	Dec. 5-Jan. 21	15	30
State Zone	Dec. 2-Dec. 24 &	15	30
	Dec. 26-Jan. 21	15	30

	Season Dates	Limits Bag	Possession
Wisconsin			
North Zone	Sept. 30-Oct. 8 &	15	30
	Oct. 14-Nov. 23	15	30
South Zone	Sept. 30-Oct. 8 &	15	30
	Oct. 17-Nov. 26	15	30
CENTRAL FLYWAY			
• • • • •			
New Mexico (1)			
North Zone	Oct. 21-Nov. 10 &	1	2
	Nov. 21-Jan. 21	1	2
South Zone	Oct. 31-Jan. 21	1	2
• • • • •			
PACIFIC FLYWAY			
All States	Seasons are in aggregate with coots and listed in paragraph (e).		

(1) The season applies to common moorhens only.
(2) In Minnesota, the daily bag limit is 15 and the possession limit is 30 coots, moorhens, and gallinules in the aggregate.

(b) Sea Ducks (scoter, eider, and oldsquaw ducks in Atlantic Flyway)

NOTE: The following seasons are in addition to the seasons published previously in the August 31, 1995, Federal Register (60 FR 45628).

Within the special sea duck areas, the daily bag limit is 7 sea ducks of which no more than 4 may be scoters. Possession limits are twice the daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

	Season Dates	Limits Bag	Possession
Connecticut	Oct. 2-Jan. 16	7	14
Georgia	Nov. 22-Jan. 20	7	14
Maine	Oct. 6-Jan. 20	7	14
Maryland	Oct. 6-Jan. 20	5	10
Massachusetts	Oct. 6-Jan. 20	7	14
North Carolina	Oct. 6-Jan. 20	7	14
South Carolina	Oct. 6-Jan. 20	7	14
Virginia	Oct. 6-Jan. 20	7	14

Note: Notwithstanding the provisions of this Part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia and Maryland in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

(c) Waterfowl, Coots, and Pacific Flyway Seasons for Common Moorhens and Purple Gallinules

Definitions

The Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

The Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

The Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

The Pacific Flyway: Includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Light Geese: Includes lesser snow (including blue) geese, greater snow geese, and Ross' geese.

Dark Geese: Includes Canada geese, white-fronted geese, emperor geese, brant (except in California, Oregon, Washington, and the entire Atlantic Flyway) and all other geese except light geese.

ATLANTIC FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 5 ducks may include no more than 1 female mallard, 1 pintail, 1 black duck, 1 canvasback, 1 mottled duck, 2 wood ducks, 2 redheads, and 1 fulvous tree duck. The possession limit is twice the daily bag limit.

Harlequin Ducks: All areas of the Flyway are closed to harlequin duck hunting.

Merganser Limits: The merganser limits include no more than 1 hooded merganser daily and 2 in possession.

	Season Dates	Limits Bag	Limits Possession
Connecticut (1)			
Ducks (2):			
North Zone	Oct. 21-Oct. 28 &	5	10
	Nov. 17-Dec. 28	5	10
South Zone	Oct. 21-Oct. 28 &	5	10
	Dec. 11-Jan. 20	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
North Zone	Closed	--	--
South Zone	Closed	--	--
(special season)	Jan. 15-Feb. 15	State Permit Only	
Light Geese	Oct. 21-Feb. 3	5	10
Brant:			
North Zone	Same as for ducks	2	4
South Zone	Same as for ducks	2	4
Delaware			
Ducks	Oct. 30-Nov. 4 &	4	8
	Nov. 20-Nov. 25 &	4	8
	Dec. 4-Jan. 10	4	8
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese	Closed	--	--
Light Geese:			
Bombay Hook NWR	Nov. 10-Nov. 19	5	10
Statewide	Oct. 16-Nov. 9 &	5	10
	Nov. 20-Jan. 6 &	5	10
	Feb. 8-Mar. 2	5	10
Brant	Dec. 1-Dec. 30 &	2	4
	Jan. 1-Jan. 20	2	4
Florida			
Ducks	Nov. 22-Nov. 28 &	5	10
	Dec. 7-Jan. 20	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese	Closed	--	--
Georgia			
Ducks	Nov. 22-Nov. 28 &	5	10
	Dec. 7-Jan. 20	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese (special season) (3)	Jan. 17-Jan. 31	State Permit Only	
Light Geese	Same as for ducks	2	4
Brant	Closed	--	--
Maine			
Ducks:			
North Zone	Oct. 2-Oct. 25 &	4	8
	Nov. 3-Nov. 18	4	8
South Zone (4)	Oct. 2-Oct. 14 &	4	8
	Nov. 15-Dec. 21	4	8
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
North Zone	Closed	--	--
South Zone	Closed	--	--
Light Geese	Oct. 2-Jan. 16	5	10
Brant	Oct. 2-Nov. 20	2	4
Maryland			
Ducks (5)	Oct. 11-Oct. 14 &	4	8
	Nov. 17-Nov. 24 &	4	8
	Dec. 14-Jan. 20	4	8
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese	Closed	--	--
Light Geese	Nov. 3-Nov. 24 &	5	10
	Dec. 14-Mar. 7	5	10
Brant	Nov. 16-Nov. 24 &	2	4
	Dec. 11-Jan. 20	2	4

	Season Dates	Limits Bag	Limits Possession
Massachusetts			
Ducks:			
Western Zone	Oct. 7-Nov. 25	5	10
Central Zone	Oct. 12-Oct. 21 & Nov. 14-Dec. 23	5	10
Coastal Zone (6)	Oct. 19-Oct. 28 & Nov. 23-Jan. 1	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
Western Zone	Closed	--	--
Central Zone	Closed	--	--
(special season) (3)	Jan. 22-Feb. 5	5	10
Coastal Zone	Closed	--	--
Light Geese:			
Western Zone	Same as for ducks	5	10
Central Zone	Same as for ducks	5	10
Coastal Zone	Same as for ducks	5	10
Brant:			
Berkshire & Central Zone	Closed	--	--
Coastal Zone	Nov. 23-Jan. 11	2	4
New Hampshire			
Ducks:			
Inland Zone	Oct. 4-Nov. 4 & Nov. 22-Dec. 9	5	10
Coastal Zone	Oct. 5-Oct. 15 & Nov. 22-Dec. 30	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
Inland Zone	Closed	--	--
Coastal Zone	Closed	--	--
Light Geese:			
Inland Zone	Oct. 4-Dec. 9	5	10
Coastal Zone	Oct. 5-Dec. 20	5	10
Brant:			
Inland Zone	Oct. 4-Nov. 22	2	4
Coastal Zone	Oct. 5-Oct. 15 & Nov. 22-Dec. 30	2	4

	Season Dates	Limits Bag	Limits Possession
New Jersey			
Ducks:			
North Zone	Oct. 14-Oct. 28 & Nov. 23-Dec. 27	5	10
South Zone	Oct. 21-Oct. 28 & Nov. 22-Jan. 2	5	10
Coastal Zone	Oct. 30-Nov. 18 & Dec. 8-Jan. 6	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
North Zone	Closed	--	--
South Zone	Closed	--	--
Coastal Zone	Closed	--	--
(special season) (3)	Jan. 27-Feb. 10	5	10
Light Geese:			
North Zone	Oct. 14-Jan. 27	5	10
South Zone	Nov. 22-Jan. 6 & Jan. 9-Mar. 9	5	10
Coastal Zone	Oct. 13-Jan. 27	5	10
Brant:			
North Zone	Same as for ducks	2	4
South Zone	Same as for ducks	2	4
Coastal Zone	Same as for ducks	2	4
New York			
Ducks?			
Long Island Zone	Nov. 22-Nov. 26 & Dec. 7-Jan. 20	5	10
Lake Champlain Zone (7)	Oct. 11-Oct. 22 & Nov. 4-Dec. 11	4	8
Northeastern Zone (8)	Oct. 7-Oct. 29 & Nov. 4-Nov. 30	3	6
Southeastern Zone (8)	Oct. 14-Oct. 29 & Nov. 18-Dec. 21	5	10
Western Zone (8)	Oct. 19-Nov. 25 & Dec. 26-Jan. 6	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
Long Island Zone	Closed	--	--
Lake Champlain Zone	Closed	--	--
Northeastern Zone	Closed	--	--
Southeastern Zone	Closed	--	--
Western Zone	Closed	--	--
Special season (3)	Jan. 21-Feb. 15	5	10

	Season Dates	Limits Bag	Possession
New York (cont.)			
Light Geese:			
Long Island Zone	Oct. 1-Oct. 26 &	5	10
	Nov. 22-Feb. 10	5	10
Lake Champlain Zone	Oct. 1-Jan. 15	5	10
Northeastern Zone	Oct. 7-Jan. 21	5	10
Southeastern Zone	Oct. 14-Jan. 28	5	10
Western Zone	Oct. 19-Feb. 2	5	10
Brant:			
Long Island Zone	Nov. 22-Nov. 26 &	2	4
	Dec. 7-Jan. 20	2	4
Lake Champlain Zone	Oct. 11-Nov. 29	2	4
Northeastern Zone	Oct. 7-Nov. 25	2	4
Southeastern Zone	Oct. 14-Dec. 2	2	4
Western Zone	Oct. 19-Dec. 7	2	4
North Carolina			
Ducks	Oct. 5-Oct. 7 &	5	10
	Nov. 20-Nov. 25 &	5	10
	Dec. 11-Jan. 20	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese	Closed	--	--
Light Geese	Nov. 20-Mar. 5	5	10
Brant	Nov. 20-Nov. 25 &	2	4
	Dec. 8-Jan. 20	2	4
Pennsylvania			
Ducks:			
North Zone	Oct. 7-Oct. 21 &	5	10
	Oct. 28-Dec. 1	5	10
South Zone	Oct. 7-Oct. 14 &	5	10
	Nov. 20-Dec. 30	5	10
Northwest Zone	Oct. 7-Oct. 14 &	5	10
	Nov. 4-Dec. 15	5	10
Lake Erie Zone	Nov. 7-Dec. 4 &	5	10
	Dec. 9-Dec. 30	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
North Zone	Closed	--	--
South Zone	Closed	--	--
(special season) (9)	Jan. 20-Feb. 5	5	10
Erie, Mercer, and Butler Counties	Oct. 7-Oct. 14 &	1	2
	Nov. 13-Jan. 13	2	4
Crawford County	Oct. 7-Oct. 14 &	1	2
	Nov. 4-Nov. 30	1	2
Light Geese	Oct. 7-Oct. 14 &	5	10
	Dec. 4-Mar. 10	5	10
Brant	Oct. 7-Dec. 25	2	4

	Season Dates	Limits Bag	Possession
Rhode Island			
Ducks	Oct. 6-Oct. 9 &	5	10
	Nov. 22-Nov. 26 &	5	10
	Dec. 11-Jan. 20	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese	Closed	--	--
Light Geese	Oct. 6-Oct. 9 &	5	10
	Nov. 22-Jan. 20	5	10
Brant	Dec. 2-Jan. 20	2	4
South Carolina			
Ducks (10)	Nov. 22-Nov. 25 &	5	10
	Dec. 6-Jan. 20	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese (special season) (3) (11)	Dec. 27-Dec. 30 &	State Permit Only	
	Jan. 17-Jan. 24	State Permit Only	
Light Geese	Same as for ducks	5	10
Brant	Same as for ducks	2	4
Vermont			
Ducks (12):			
Lake Champlain Zone	Oct. 11-Oct 22 &	4	8
	Nov. 4-Dec. 11	4	8
Interior Zone	Oct. 4-Nov. 12 &	4	8
	Nov. 18-Nov. 27	4	8
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese	Closed	--	--
Light Geese	Oct. 1-Jan. 15	5	10
Brant	Oct. 11-Nov. 29	2	4
Virginia			
Ducks	Oct. 11-Oct. 14 &	4	8
	Nov. 21-Nov. 25 &	4	8
	Dec. 11-Jan. 20	4	8
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
Back Bay Area	Closed	--	--
Remainder of State	Closed	--	--
Light Geese	Nov. 15-Feb. 29	5	10
Brant	Nov. 21-Nov. 25 &	2	4
	Dec. 7-Jan. 20	2	4

	Season Dates	Limits Bag	Limits Possession
West Virginia			
Ducks:			
Zone 1	Oct. 2-Oct. 14 &	5	10
	Dec. 15-Jan. 20	5	10
Zone 2	Oct. 2-Oct. 14 &	5	10
	Nov. 24-Dec. 30	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
Zone 1	Oct. 2-Oct. 14 &	3	6
	Nov. 25-Jan. 20	3	6
Zone 2	Oct. 2-Nov. 11 &	3	6
	Dec. 23-Jan. 20	3	6
Light Geese:			
Zone 1	Same as for Canada geese	5	10
Zone 2	Same as for Canada geese	5	10
Brant	Dec. 2-Jan. 20	2	4

(1) In Connecticut, the shooting hours on October 21 are 7:00 a.m. to sunset.
(2) In Connecticut, the season is closed for black ducks October 21 through October 28.
(3) State permit required.
(4) In Maine, the season is closed for black ducks October 2 through October 7 in the South Zone.
(5) In Maryland, the daily bag limit may include no more than 1 redhead; the black duck season is closed October 11 through October 14 and November 17 through November 24; and the canvasback season is open only January 1 through January 20.
(6) In Massachusetts, the season is closed for black ducks November 29 through December 8 in the Coastal Zone.
(7) In New York, the shooting hours on October 11 are 7:00 a.m. to sunset in the Lake Champlain Zone.
(8) In New York, the season is closed for black ducks November 18 through November 30 in the Northeastern Zone, October 14 through October 29 in the Southeastern Zone, and December 26 through January 6 in the Western Zone.
(9) In Pennsylvania, the special season will only be held in the Susquehanna/Juniata Zone.
(10) In South Carolina, the daily bag limit of 5 may not exceed 4 mallards and may not exceed 1 black duck, mottled duck, or female mallard in the aggregate.
(11) In South Carolina, the bag limits during the special season are 3 per day and 12 per season.
(12) In Vermont, the shooting hours in the Interior Zone on October 4 and in the Lake Champlain Zone on October 11 are 7:00 a.m. to sunset.

MISSISSIPPI FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 5 ducks may include no more than 4 mallards (no more than 1 of which may be a female), 1 black duck, 1 pintail, 1 canvasback, 1 redhead, and 2 wood ducks. The possession limit is twice the daily bag limit.

Merganser Limits: The merganser limits include no more than 1 hooded merganser daily and 2 in possession.

	Season Dates	Limits Bag	Limits Possession
Alabama			
Ducks:			
North Zone	Dec. 2-Dec. 24 &	5	10
	Dec. 26-Jan. 21	5	10
South Zone	Nov. 18-Nov. 26 &	5	10
	Dec. 14-Jan. 21	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:		5	5
Dark Geese:			
North Zone:			
SJBP Zone	Dec. 17-Dec. 24 &	2	4
	Dec. 26-Jan. 21	2	4
Rest of North Zone	Sept. 30-Oct. 8 &	2	4
	Dec. 2-Dec. 24 &	2	4
	Dec. 26-Jan. 31	2	4
South Zone	Nov. 18-Nov. 26 &	2	4
	Dec. 14-Jan. 31	2	4
Light Geese	Same as for dark geese	5	5
Arkansas			
Ducks	Nov. 24-Dec. 10 &	5	10
	Dec. 16-Dec. 21 &	5	10
	Dec. 26-Jan. 21	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:		10	20
Canada (1):			
East Zone	Jan. 20-Feb. 11	2	4
West Zone	Jan. 27-Feb. 9	1	2
White-fronted	Nov. 24-Jan. 31	2	4
Brant	Closed	--	--
Light Geese	Nov. 24-Mar. 9	10	20
Illinois			
Ducks:			
North Zone	Oct. 14-Dec. 2	5	10
Central Zone	Oct. 28-Dec. 16	5	10
South Zone	Nov. 4-Dec. 23	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30

	Season Dates	Limits Bag	Limits Possession
Illinois (cont.)			
Geese:		10	20
Canada (2):			
North Goose Zone:			
Northern Illinois Quota Zone (2)	Oct. 14-Jan. 14	3	10
Rest of North Goose Zone	Oct. 14-Jan. 14	3	10
Central Goose Zone:			
Central Illinois Quota Zone (2)	Oct. 28-Jan. 28	3	10
Rest of Central Goose Zone	Oct. 28-Jan. 28	3	10
South Goose Zone:			
Southern Illinois Quota Zone (2)(3)	Nov. 4-Jan. 31	3	10
Rend Lake Quota Zone (2)(3)	Nov. 4-Jan. 31	3	10
Rest of South Goose Zone	Nov. 4-Jan. 31	3	10
White-fronted and Brant			
North Goose Zone	Oct.14-Dec. 22	2	4
Central Goose Zone	Oct. 28-Jan. 5	2	4
South Goose Zone	Nov. 23-Jan. 31	2	4
Light Geese			
North Goose Zone	Oct. 14-Jan. 28	10	20
Central Goose Zone	Oct. 28-Jan. 28 &	10	20
	Feb. 26-Mar. 10	10	20
South Goose Zone	Nov. 4-Jan. 31 &	10	20
	Feb. 10-Feb. 27	10	20
Indiana			
Ducks:			
North Zone	Oct. 21-Oct. 24 &	5	10
	Oct. 28-Dec. 12	5	10
South Zone	Oct. 28-Nov. 1 &	5	10
	Nov. 18-Jan. 1	5	10
Ohio River Zone	Oct. 28-Nov. 5 &	5	10
	Dec. 9-Jan. 18	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:		10	20
Canada (2):			
North Zone:			
SJBP Area	Oct. 21-Oct. 24 &	2	4
	Dec. 2-Jan. 1	2	4
Rest of North Zone	Oct. 21-Oct. 24 &	3	6
	Nov. 4-Jan. 8	3	6
South Zone:			
Posey County (2)	Nov. 28-Jan. 31	2	4
Rest of South Zone	Oct. 28-Nov. 1 &	3	6
	Nov. 18-Jan. 21	3	6
Ohio River Zone:			
Posey County (2)	Nov. 28-Jan. 31	2	4
Rest of Ohio River Zone	Nov. 23-Jan. 31	3	6
White-fronted and Brant	Same as for Canada geese	2	4
Light Geese	Oct. 21-Feb. 4	10	20

	Season Dates	Limits Bag	Limits Possession
Iowa			
Ducks:			
North Zone	Sept. 23-Sept. 27 &	5	10
	Oct. 15-Nov. 28	5	10
South Zone	Sept. 23-Sept. 25 &	5	10
	Oct. 21-Dec. 6	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:		10	20
Canada Geese:			
North Zone	Sept. 30-Dec. 8	2	4
South Zone	Oct. 14-Dec. 22	2	4
White-fronted:			
North Zone	Sept. 30-Dec. 8	2	4
South Zone	Oct. 14-Dec. 22	2	4
Brant:			
North Zone	Sept. 30-Dec. 8	2	4
South Zone	Oct. 14-Dec. 22	2	4
Light Geese			
North Zone	Sept. 30-Jan. 10	10	20
South Zone (4)	Oct. 14-Jan. 10 &	10	20
	Feb. 24-Mar. 10	10	20
Kentucky			
Ducks:			
West Zone	Nov. 23-Nov. 26 &	5	10
	Dec. 2-Jan. 16	5	10
East Zone	Nov. 23-Nov. 26 &	5	10
	Dec. 7-Jan. 21	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:		10	20
Canada (2):			
Western Goose Zone (2):			
Fulton County	Nov. 23-Nov. 26 &	2	4
	Dec. 2-Feb. 15	2	4
Rest of Western Goose Zone	Nov. 23-Nov. 26 &	2	4
	Dec. 2-Jan. 31	2	4
Pennyroyal/Coalfield Zone	Dec. 13-Jan. 16	2	4
Rest of State	Dec. 13-Jan. 31	2	4
White-fronted	Nov. 23-Jan. 31	2	4
Brant	Nov. 23-Jan. 31	2	4
Light Geese:			
Fulton County (5)	Nov. 23-Feb. 15	10	20
Rest of State	Nov. 23-Jan. 31	10	20

	Season Dates	Limits Bag	Limits Possession
Louisiana			
Ducks:			
West Zone	Nov. 11-Dec. 3 &	5	10
	Dec. 16-Jan. 11	5	10
East Zone:			
Catahoula Lake Area	Nov. 18-Nov. 30 &	5	10
	Dec. 16-Jan. 21	5	10
Rest of East Zone	Nov. 18-Nov. 30 &	5	10
	Dec. 16-Jan. 21	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:		10	20
Canada (6)	Jan. 23-Jan. 31	1	2
White-fronted (6) and Brant	Nov. 11-Dec. 3 &	2	4
	Dec. 16-Jan. 31	2	4
Light Geese	Nov. 11-Dec. 3 &	10	20
	Dec. 16-Feb. 25	10	20
Michigan			
Ducks:			
North Zone	Sept. 30-Nov. 18	5	10
Middle Zone	Oct. 7-Nov.25	5	10
South Zone	Oct. 14-Dec. 2	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:		10	20
Canada (2):			
North Zone	Sept. 23-Nov. 1	2	4
Middle Zone	Oct. 7-Nov. 15	2	4
South Zone:			
Muskegon Wastewater Goose Management Unit (GMU) (2)	Oct. 14-Nov. 14 &	2	4
	Dec. 1-Dec. 21	2	4
Allegan County GMU (2)	Oct. 14-Dec. 2	1	2
Saginaw County GMU (2)	Oct. 14-Dec. 2	1	2
Tuscola/Huron GMU (2)	Oct. 14-Dec. 2	1	2
Southern Michigan GMU:			
East of US-27/127	Oct. 14-Nov. 2 &	1	2
	Nov. 23-Dec. 2	1	2
(special season)	Jan. 6-Feb. 4	2	4
West of US-27/127	Oct. 14-Nov. 12 &	1	2
	Nov. 23-Dec. 2	2	4
(special season)	Jan. 6-Feb. 4	2	4
Rest of South Zone:			
East of US-27/127	Oct. 14-Nov. 2 &	1	2
	Nov. 23-Dec. 2	1	2
West of US-27/127	Oct. 14-Nov. 12 &	1	2
	Nov. 23-Dec. 2	2	4
White-fronted and Brant	See Footnote 7	2	4
Light Geese	See Footnote 8	10	20
Minnesota			
Ducks (9)	Sept. 30-Nov. 18	5	10
Mergansers	Same as for ducks	5	10
Coots (10)	Same as for ducks	15	30
Geese:		7	14
Canada (2):			
West Zone:			
West Central Zone:			
Lac qui Parle Zone (2)	Sept. 30-Oct. 8 &	1	2
	Oct. 14-Nov. 3	1	2
Rest of West Central Zone	Sept. 30-Oct. 8 &	1	2
	Oct. 14-Nov. 3	1	2
Rest of West Zone	Sept. 30-Nov. 8	1	2
Northwest Zone	Sept. 30-Nov. 8	1	2
Fergus Falls/Alexandria Zone:			
West Zone	Sept. 30-Nov. 8	1	2
(special season)	Dec. 9-Dec. 18	2	4
Rest of Fergus Falls/ Alexandria Zone	Sept. 30-Nov. 18	2	4
(special season)	Dec. 9-Dec. 18	2	4
Southeast Zone:			
Twin Cities Metro Zone and Olmsted County	Sept. 30-Dec. 8 &	2	4
	Dec. 15-Dec. 24	2	4
Rest of Southeast Zone	Sept. 30-Dec. 8	2	4
Rest of State	Sept. 30-Nov. 18	2	4
White-fronted and Brant:			
West Zone	Sept. 30-Nov. 8	2	4
Northwest Zone	Sept. 30-Nov. 8	2	4
Southeast Zone	Sept. 30-Dec. 8	2	4
Rest of State	Sept. 30-Nov. 18	2	4
Light Geese	Sept. 30-Dec. 18	7	14
Mississippi			
Ducks	Dec. 2-Dec. 24 &	5	10
	Dec. 26-Jan. 21	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:		10	20
Canada Geese	Nov. 25-Jan. 31	3	6
White-fronted	Nov. 25-Jan. 31	2	4
Brant	Nov. 25-Jan. 31	2	4
Light Geese	Nov. 25-Mar. 10	10	20

	Season Dates	Limits Bag	Limits Possession
Missouri			
Ducks and Mergansers:			
North Zone	Oct. 28-Dec. 16	5	10
Middle Zone	Nov. 4-Dec. 23	5	10
South Zone	Nov. 22-Jan. 10	5	10
Coots	Same as for ducks	15	30
Geese:		10	20
Canada (2):			
North Zone:			
Swan Lake Zone (2)	Oct. 28-Nov. 5 &	2	4
	Nov. 24-Dec. 24	2	4
Rest of North Zone	Sept. 30-Oct. 11 &	2	4
	Oct. 28-Dec. 24	2	4
Middle Zone:			
Schell-Osage Zone	Nov. 4-Nov. 6 &	2	4
	Dec. 2-Jan. 7	2	4
Rest of Middle Zone	Nov. 22-Jan. 30	2	4
South Zone	Nov. 22-Jan. 30	2	4
White-fronted and Brant:			
North Zone:			
Swan Lake Zone	Oct. 28-Dec. 24	2	4
Rest of North Zone	Sept. 30-Oct. 11 &	2	4
	Oct. 28-Dec. 24	2	4
Middle Zone	Nov. 22-Jan. 30	2	4
South Zone	Nov. 22-Jan. 30	2	4
Light Geese:			
North Zone	Oct. 28-Feb. 11	10	20
Middle Zone	Nov. 22-Mar. 7	10	20
South Zone	Nov. 22-Mar. 7	10	20
Ohio			
Pymatuning Area:			
Ducks (11)	Oct. 7-Oct. 14 &	5	10
	Nov. 4-Dec. 15	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese	Oct. 7-Oct. 14 &	1	2
	Nov. 4-Nov. 30	1	2
Light Geese	Oct. 7-Oct. 14 &	5	10
	Dec. 4-Mar. 10	5	10
Brant	Oct. 7-Nov. 25	2	4
Rest of State:			
Ducks:			
North Zone	Oct. 21-Nov. 25 &	5	10
	Dec. 16-Dec. 29	5	10
South Zone	Oct. 21-Nov. 2 &	5	10
	Dec. 16-Jan. 21	5	10
Ohio River Zone	Oct. 21-Oct. 29 &	5	10
	Dec. 12-Jan. 21	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30

	Season Dates	Limits Bag	Limits Possession
Ohio (cont.)		10	20
Geese:			
Canada:			
North Zone:			
Lake Erie SJBP Zone	Nov. 10-Nov. 25 &	1	2
	Dec. 16-Dec. 29	1	2
Rest of North Zone	Oct. 21-Nov. 25 &	2	4
	Dec. 9-Jan. 11	2	4
South Zone	Oct. 21-Nov. 8 &	2	4
	Dec. 9-Jan. 28	2	4
Ohio River Zone	Oct. 21-Nov. 8 &	2	4
	Dec. 9-Jan. 28	2	4
White-fronted and Brant	Same as for Canada geese	2	4
Light Geese	Same as for Canada geese	10	20
Tennessee			
Ducks:			
Reelfoot Zone	Nov. 11-Nov. 12 &	5	10
	Dec. 5-Jan. 21	5	10
State Zone	Dec. 2-Dec. 24 &	5	10
	Dec. 26-Jan. 21	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:		10	20
Canada (2)(12):			
Northwest Zone (2)	Dec. 2-Feb. 15	3	6
Southwest Zone	Dec. 2-Jan. 31	2	4
Kentucky/Barkley Lakes Zone (2)	Dec. 13-Jan. 31	2	4
Rest of State (12)	Oct. 7-Oct. 15 &	2	4
	Dec. 2-Jan. 31	2	4
White-fronted and Brant	Nov. 23-Jan. 31	2	4
Light Geese	Nov. 23-Mar. 8	10	20
Wisconsin			
Ducks:			
North Zone	Sept. 30-Oct. 8 &	5	10
	Oct. 14-Nov. 23	5	10
South Zone	Sept. 30-Oct. 8 &	5	10
	Oct. 17-Nov. 26	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	5	10
Geese:		10	20
Canada (2):			
Horicon Zone	Sept. 23-Dec. 11	Tag System--See State Regulations	
Collins Zone	Sept. 23-Nov. 17 &	Tag System--See State Regulations	
	Nov. 27-Dec. 5	Tag System--See State Regulations	

	Season Dates	Limits Bag	Possession
Wisconsin (cont.)			
Exterior Zone:			
Rock Prairie Subzone	Sept. 23-Oct. 8 &	1	2
	Oct. 9-Nov. 3 &	2	4
	Nov. 4-Dec. 17	1	2
Mississippi River Subzone:			
North Duck Zone	Sept. 30-Oct. 8 &	1	2
	Oct. 14-Dec. 13	2	4
South Duck Zone	Sept. 30-Oct. 8 &	1	2
	Oct. 17-Dec. 17	2	4
Rest of Exterior Zone	Sept. 23-Oct. 8 &	1	2
	Oct. 9-Dec. 17	2	4
White-fronted and Brant:			
Horicon Zone	Sept. 23-Dec. 1	2	4
Collins Zone	Sept. 23-Nov. 17 &	2	4
	Nov. 27-Dec. 5	2	4
Exterior Zone:			
Rock Prairie Subzone	Sept. 23-Dec. 1	2	4
Mississippi River Subzone:			
North Duck Zone	Sept. 30-Oct. 8 &	2	4
	Oct. 14-Dec. 13	2	4
South Duck Zone	Sept. 30-Oct. 8 &	2	4
	Oct. 17-Dec. 16	2	4
Rest of Exterior Zone	Sept. 23-Dec. 1	2	4
Light Geese:			
Horicon Zone	Sept. 23-Dec. 11	10	20
Collins Zone	Sept. 23-Nov. 17 &	10	20
	Nov. 27-Dec. 5	10	20
Exterior Zone:			
Rock Prairie Subzone	Sept. 30-Dec. 17	10	20
Mississippi River Subzone:			
North Duck Zone	Sept. 30-Oct. 8 &	10	20
	Oct. 14-Dec. 13	10	20
South Duck Zone	Sept. 30-Oct. 8 &	10	20
	Oct. 17-Dec. 17	10	20
Rest of Exterior Zone	Sept. 23-Dec. 17	10	20

(1) In Arkansas, shooting hours for Canada geese are one-half hour before sunrise to noon.
(2) Harvests of Canada geese will be limited by quotas established in the September 27, 1995, Federal Register. When it has been determined that the quota of Canada geese allotted to the Northern Illinois, Central Illinois, Southern Illinois and Rend Lake Quota Zones in Illinois, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky, the Allegan County, Muskegon Wastewater, Saginaw County, and Tuscola/Huron Goose Management Units in Michigan, the Lac Qui Parle Zone in Minnesota, the Swan Lake Zone in Missouri, the Northwest and Kentucky/Barkley Lakes Zones in Tennessee, and the Exterior Zone in Wisconsin will have been filled, the season for taking Canada geese in the respective zone (and associated area, if applicable) will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.
(3) In Illinois, shooting hours for geese in the Southern Illinois and Rend Lake Quota Zones through January 28 shall close at 3 p.m.
(4) In Iowa, the February 24 through March 10 period for light geese in the South Zone is only open in that part of the South Zone south of Interstate 80.
(5) In Kentucky, the season for light geese will close prior to February 15 in Fulton County if the Canada goose season is closed prior to the closing date of February 15.
(6) In Louisiana, during the Canada goose season, the daily bag limit is 2 Canada and white-fronted geese in the aggregate, no more than 1 of which may be a Canada goose. The possession limit is twice the daily bag limit. A special permit is required by the State.
(7) In Michigan, the seasons for white-fronted geese and brant open concurrent with the seasons for Canada geese and run continuously through the end of the duck season, except in the Southern Michigan Goose Management Unit, where the January 6 through February 4 special season is for Canada geese only.
(8) In Michigan, the seasons for light geese begin with Canada goose seasons in the respective zones and goose management units and run continuously through the end of the duck season, except in the Southern Michigan Goose Management Unit, where the January 6 through February 4 special season is for Canada geese only.
(9) In Minnesota, North Heron Lake, South Heron Lake, North Marsh, and Duck Lake in Jackson County are closed to the taking of canvasbacks.
(10) In Minnesota, the daily bag limit is 15 and the possession limit is 30, coots, moorhens, and gallinules in the aggregate.
(11) In Ohio, in the Pymatuning Area, the restrictions of the duck bag limit for Pennsylvania apply.
(12) In Tennessee, see State regulations for permit requirements and additional restrictions.

CENTRAL FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 5 ducks may include no more than 1 female mallard, 1 mottled duck, 1 pintail, 1 redhead, 1 canvasback, and 2 wood ducks. The possession limit is twice the daily bag limit.

Merganser Limits: The merganser limits include no more than 1 hooded merganser daily and 2 in possession.

	Season Dates	Limits Bag	Possession
Colorado			
Ducks	Sept. 30-Oct. 15 &	5	10
	Oct. 28-Nov. 26 &	5	10
	Dec. 16-Jan. 21	5	10
Coots	Same as for ducks	15	30
Mergansers	Same as for ducks	5	10
Dark Geese (1):			
Northern Front Range Unit	Sept. 30-Oct. 13 &	4	8
	Oct. 28-Jan. 28	4	8
South Park Unit (2)	Sept. 30-Oct. 13 &	2	4
	Oct. 28-Jan. 1	2	4
San Luis Valley Unit (2)	Oct. 28-Jan. 1	2	4
North Park Unit (2)	Sept. 30-Oct. 13 &	2	4
	Oct. 28-Jan. 1	2	4
Arkansas Valley Unit (3)	Nov. 8-Jan. 28	4	8
Rest of State in Central Flyway	Oct. 28-Jan. 28	4	8

	Season Dates	Limits: Bag	Limits: Possession
Colorado (cont.)			
Light Geese:			
Northern Front Range Unit	Oct. 28-Jan. 28	5	10
South Park Unit (2)	Oct. 28-Jan. 1	2	4
San Luis Valley Unit (2)	Oct. 28-Jan. 1	2	4
North Park Unit (2)	Oct. 28-Jan. 1	2	4
Arkansas Valley Unit	Nov. 8-Jan. 28 &	5	10
	Feb. 15-Feb. 28	5	10
Northeast Colorado Late Light Geese Unit	Oct. 28-Jan. 28 &	5	10
	Feb. 15-Feb. 28	5	10
Rest of State in Central Flyway	Oct. 28-Jan. 28	5	10
Kansas			
Ducks and Mergansers:			
High Plains	Sept. 30-Oct. 3 &	5	10
	Oct. 14-Dec. 17 &	5	10
	Dec. 23-Jan. 5	5	10
Low Plains	Oct. 22-Oct. 29 &	5	10
	Nov. 11-Dec. 17 &	5	10
	Dec. 23-Jan. 5	5	10
Coots	Same as for ducks	15	30
Dark Geese (4):		2	4
Canada	Nov. 4-Jan. 28	2	4
White-fronted	Nov. 4-Jan. 28	1	2
Light Geese:			
Unit 1	Nov. 25-Mar. 10	10	20
Unit 2	Oct. 21-Jan. 5 &	10	20
	Feb. 10-Mar. 10	10	20
Montana			
Ducks and Mergansers:			
Zone 1	Sept. 30-Nov. 26 &	5	10
	Dec. 9-Jan. 2	5	10
Zone 2	Sept. 30-Oct. 22 &	5	10
	Nov. 4-Jan. 2	5	10
Coots	Same as for ducks	15	30
Geese:			
Dark Geese:		4	8
Canada	Sept. 30-Jan. 14	4	8
White-fronted	Sept. 30-Jan. 14	1	2
Light Geese	Sept. 30-Jan. 14	5	10

	Season Dates	Limits: Bag	Limits: Possession
Nebraska (5)			
Ducks and Mergansers:			
High Plains	Oct. 7-Dec. 3 &	5	10
	Dec. 9-Jan. 2	5	10
Low Plains:			
Zones 1 and 2	Oct. 14-Oct. 15 &	5	10
	Oct. 21-Dec. 17	5	10
Zones 3 and 4	Sept. 30-Oct. 1 &	5	10
	Oct. 7-Dec. 3	5	10
Coots	Same as for ducks	15	30
Dark Geese:		2	4
North Unit:			
Canada	Oct. 28-Nov. 10 &	1	2
	Nov. 11-Jan. 21	2	4
White-fronted	Oct. 28-Jan. 21	1	2
East Unit:			
Canada	Oct. 7-Nov. 10 &	1	2
	Nov. 11-Dec. 31	2	4
White-fronted	Oct. 7-Dec. 31	1	2
West Unit:			
Canada	Oct. 7-Oct. 15 &	1	2
	Oct. 23-Nov. 10 &	1	2
	Nov. 11-Jan. 7	2	4
White-fronted	Oct. 7-Oct. 15 &	1	2
	Oct. 23-Jan. 7	1	2
Light Geese:			
Zone 1	Oct. 1-Dec. 29 &	10	20
	Jan. 27-Feb. 18	10	20
Zone 2	Oct. 7-Dec. 15 &	10	20
	Feb. 3-Mar. 10	10	20
New Mexico			
Ducks and Mergansers:			
North Zone	Oct. 21-Nov. 10 &	5	10
	Nov. 21-Jan. 21	5	10
South Zone	Oct. 31-Jan. 21	5	10
Coots	Same as for ducks	15	30
Dark Geese (6):			
Middle Rio Grande Valley Unit	Dec. 30-Jan. 7	1	1
Rest of State	Oct. 17-Jan. 31	4	8
Light Geese:			
Middle Rio Grande Valley Unit	Nov. 11-Feb. 25	10	20
Rest of State	Nov. 11-Feb. 25	5	10
North Dakota			
Ducks (7)(8):			
Statewide	Sept. 30-Nov. 26 &	5	10
	Dec. 2-Dec. 3	5	10
	Dec. 9-Dec. 31	5	10
High Plains	Same as for ducks	5	10
Mergansers (3)			

	Season Dates	Limits: Bag	Limits: Possession
North Dakota (cont.)			
Coots (8)	Same as for ducks	15	30
Dark Geese (9):		2	4
Statewide:			
Canada	Sept. 30-Nov. 12	2	4
White-fronted	Sept. 30-Nov. 12	2	4
Missouri River Zone	Nov. 13-Dec. 24	2	4
Light Geese (9)	Sept. 30-Dec. 3	10	20
Oklahoma			
Ducks and Mergansers:			
High Plains	Oct. 15-Jan. 4	5	10
Low Plains:			
Zone 1	Oct. 28-Dec. 3 &	5	10
	Dec. 16-Jan. 7	5	10
Zone 2	Nov. 4-Dec. 3 &	5	10
	Dec. 16-Jan. 14	5	10
Coots	Same as for ducks	15	30
Dark Geese:		2	4
Canada	Nov. 4-Jan. 28	2	4
White-fronted	Nov. 4-Jan. 28	1	2
Light Geese	Nov. 25-Mar. 10	10	20
South Dakota			
Ducks and Mergansers:			
High Plains (10)	Oct. 7-Dec. 5 &	5	10
	Dec. 9-Dec. 31	5	10
Low Plains:			
North Zone	Sept. 30-Nov. 28	5	10
Middle Zone	Oct. 7-Dec. 5	5	10
South Zone	Oct. 14-Dec. 12	5	10
Coots	Same as for ducks	15	30
Dark Geese:		2	4
Canada (11)	Sept. 30-Dec. 24	2	4
White-fronted	Sept. 30-Dec. 24	1	2
Light Geese	Sept. 30-Dec. 24	10	20
Texas			
Ducks:			
High Plains	Oct. 28-Oct. 31 &	5	10
	Nov. 4-Jan. 21	5	10
Low Plains	Nov. 11-Nov. 26 &	5	10
	Dec. 9-Jan. 21	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Texas (cont.)			
Geese:			
East Tier:			
Dark Geese:			
Canada (12)	Nov. 4-Jan. 21 &	1	2
	Jan. 22-Jan. 28	2	4
White-fronted	Nov. 4-Jan. 28	1	2
Light Geese	Nov. 4-Feb. 18	10	20
West Tier:			
Dark Geese		5	10
Canada	Nov. 4-Feb. 18	4	8
White-fronted	Nov. 4-Feb. 18	1	2
Light Geese	Nov. 4-Feb. 18	5	10
Wyoming			
Ducks	Sept. 30-Oct. 26 &	5	10
	Nov. 4-Nov. 30 &	5	10
	Dec. 9-Jan. 6	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Dark Geese (13):			
Areas 1 & 2 (14)	Oct. 7-Jan. 21	4	8
Area 3	Oct. 1-Jan. 15	4	8
Area 4 (14)	Nov. 18-Jan. 31	4	8
Light Geese	Sept. 30-Nov. 21 &	5	10
	Dec. 24-Feb. 15	5	10

(1) In Colorado, the daily bag limit for dark geese may include no more than 1 white-fronted goose.

(2) In Colorado, in the North Park, South Park, and San Luis Valley Units, the bag limit for the October 28-January 1 period is 2 geese, only 1 of which may be a white-fronted goose. The possession limit is twice the daily bag limit.

(3) In Colorado, in the Arkansas Valley Unit, shooting hours are one-half hour before sunrise to noon November 8 through November 24.

(4) In Kansas, exceptions to the dark goose season are as follows: (a) Marais des Cygnes Valley Unit, South Flint Hills Unit, Central Flint Hills Unit, and Southeast Unit - season dates are December 16, 1995, through January 14, 1996. Dark goose permits issued by the Kansas Department of Wildlife and Parks are required. Unlimited permits are available in all four units with a maximum of one permit per individual per unit. In the Marais des Cygnes Valley, South Flint Hills Unit, and Central Flint Hills Unit, 6 geese permit are allowed. In the Southeast Unit, 2 geese per permit are allowed. Shooting hours in the Marais des Cygnes Unit shall be one-half hour before sunrise to 1:00 p.m. Shooting hours in all other units shall be one-half hour before sunrise to sunset.

(5) In Nebraska, see State regulations for additional information on daily bag limits.

(6) In New Mexico, the season for dark geese is closed in Bernalillo, Sandoval, Sierra, Sorocco, and Valencia Counties, and the daily bag limit for dark geese may include no more than 1 white-fronted goose.

(7) In North Dakota, the daily bag limit for wood ducks is 1 and the possession limit is 2.

(8) In North Dakota, the falconry season for ducks, mergansers, and coots is closed December 17 through December 31, 1995.

(9) In North Dakota, the shooting hours for geese are one-half hour before sunrise to 1 p.m. through October 28 and until 2 p.m. the remainder of the season.

(10) In South Dakota, the falconry season for ducks, mergansers, and coots, is closed December 29 through December 31, 1995, in the High Plains Zone.

(11) In South Dakota, the daily bag limit for dark geese may not exceed 1 Canada goose from November 20 through December 24 in Grant County east of Interstate 29.
(12) In Texas, the season on Canada geese is closed in Anderson and Henderson Counties.
(13) In Wyoming, the daily bag limit for dark geese may include no more than 1 white-fronted goose.
(14) In Wyoming, the shooting hours for geese in Goshen County are one-half hour before sunrise to 1 p.m. except on January 6-7, 13-14, 20-21, and 27-28 when shooting hours are until sunset. In Platte County, shooting hours for geese are 1/2 hour before sunrise to 1 p.m. except east of Interstate Highway 25 and north of Wyoming Highway 160 where the shooting hours are until sunset.

PACIFIC FLYWAY

Flyway-wide Restrictions

Duck and Merganser Limits: The daily bag limit of 6 ducks (including mergansers) may include no more than 1 female mallard, 2 pintails, 2 redheads and 1 canvasback. The possession limit is twice the daily bag limit.

Coot and Common Moorhen Limits: Daily bag and possession limits are in the aggregate for the two species

Goose Limits: Daily bag limits for geese may not exceed 2 white-fronted geese and 3 light geese. The possession limit is twice the daily bag limit.

Aleutian Canada Geese: The season is closed throughout the Flyway.

	Season Dates	Limits: Bag	Limits: Possession
Arizona			
Ducks (1):			
North Zone	Oct. 13-Jan. 13	6	12
South Zone	Oct. 13-Oct. 22 &	6	12
	Oct. 31-Jan. 21	6	12
Coots and moorhens	Same as for ducks	25	25
Geese:		5	5
Dark (2):			
GMU 22 & 23	Nov. 15-Jan. 21	2	2
Balance of State	Oct. 22-Jan. 21	2	2
Light (2):			
GMU 22 & 23	Nov. 15-Jan. 21	3	3
Rest of State	Oct. 22-Jan. 21	3	3
California			
Ducks:			
Northeastern Zone	Oct. 7-Jan. 7	6	12
Colorado River Zone	Oct. 13-Oct. 22 &	6	12
	Oct. 31-Jan. 21	6	12
Southern Zone	Oct. 21-Jan. 21	6	12
Southern San Joaquin Valley Zone	Oct. 21-Jan. 21	6	12
Balance-of-State Zone	Oct. 21-Jan. 21	6	12
Coots and moorhens:			
Northeastern Zone	Same as for ducks	25	25
Colorado River Zone	Same as for ducks	25	25
Southern Zone	Same as for ducks	25	25
Southern San Joaquin Valley Zone	Same as for ducks	25	25
Balance-of-State Zone	Same as for ducks	25	25
California (cont.):			
Geese:			
Northeastern Zone:		3	6
Canada Geese	Oct. 7-Jan. 7	2	4
Cackling Geese	Oct. 7-Oct. 29	1	2
White-fronted Geese	Oct. 7-Oct. 29	2	4
Light Geese	Oct. 7-Jan. 7	3	6
Colorado River Zone:		5	10
Canada Geese	Oct. 22-Jan. 21	2	4
White-fronted Geese	Oct. 22-Jan. 21	2	4
Light Geese	Oct. 22-Jan. 21	3	6
Southern Zone:		5	8
Dark Geese:		2	2
Canada	Oct. 21-Jan. 21	2	2
Cackling Geese	Oct. 21-Jan. 21	1	1
White-fronted Geese	Oct. 21-Jan. 21	2	2
Light Geese	Oct. 21-Jan. 21	3	6
Balance-of-State Zone:		3	3
Dark Geese (3):		2	2
Canada:			
Del Norte & Humboldt	Closed	--	--
Sacramento Valley Area	Closed	--	--
San Joaquin Valley Area	Oct. 28-Nov. 22	2	2
Rest of Zone	Oct. 28-Jan. 14	2	2
White-fronted:			
Sacramento Valley Closure	Oct. 28-Dec. 14	1	1
Rest of Zone	Oct. 28-Dec. 31	1	1
Light Geese	Oct. 28-Jan. 14	3	3
Brant	Nov. 1-Nov. 30	2	4
Colorado			
Ducks	Sept. 30-Oct. 15 &	6	12
	Oct. 28-Nov. 29 &	6	12
	Dec. 9-Jan. 21	6	12
Coots	Same as for ducks	25	25
Geese:			
LaPlata County (4)	Nov. 4-Jan. 19	2 per season	
Delta/Montrose Area	Nov. 4-Jan. 19	2	4
Gunnison/Saguache Area (4)	Oct. 28-Jan. 19	1 per season	
Dolores/Montezuma Area (4)	Nov. 4-Jan. 19	2 per season	
Rest of State	Sept. 30-Oct. 15 &	2	4
	Oct. 28-Jan. 19	2	4
Idaho			
Ducks:			
Zone 1	Oct. 7-Jan. 7	6	12
Zone 2	Oct. 7-Jan. 7	6	12
Zone 3	Oct. 7-Oct. 15 &	6	12
	Oct. 28-Jan. 19	6	12
Coots	Same as for ducks	25	25

	Season Dates	Limits Bag	Limits Possession
Idaho (cont.)			
Geese:		4	8
Zone 1:			
Dark	Sept. 30-Jan. 7	4	8
Light	Sept. 30-Jan. 7	3	6
Zone 2:		3	6
Dark	Sept. 30-Jan. 7	3	6
Light	Sept. 30-Jan. 7	3	6
Zone 3:		3	6
Dark	Sept. 30-Oct. 7	2	4
Light	Sept. 30-Jan. 7	3	6
Zone 4 (5)	Sept. 30-Jan. 7	4	8
Zone 5	Oct. 7-Jan. 14	4	8
Montana			
Ducks	Sept. 30-Dec. 31	6	12
Coots	Same as for ducks	25	25
Geese (6):			
Dark	Sept. 30-Jan. 7	4	8
Light	Sept. 30-Jan. 7	3	6
Nevada			
Ducks:			
Clark County	Nov. 4-Jan. 21	6	12
Rest of State	Oct. 14-Jan. 14	6	12
Coots and moorhens	Same as for ducks	25	25
Dark Geese:			
Clark County	Nov. 18-Jan. 21	2	4
Rest of State	Oct. 21-Jan. 21	3	6
Light Geese:			
Clark County	Nov. 18-Jan. 21	3	6
Rest of State (7)	Oct. 21-Jan. 21	3	6
New Mexico			
Ducks	Oct. 14-Oct. 29 &	6	12
	Nov. 6-Jan. 21	6	12
Coots	Same as for ducks	15	30
Moorhens (8)	Same as for ducks	1	2
Geese:			
North Zone:			
Dark	Sept. 30-Oct. 31 &	2	4
	Dec. 23-Jan. 21	2	4
Light	Sept. 30-Oct. 31 &	1	2
	Dec. 23-Jan. 21	1	2
South Zone:			
Dark	Oct. 28-Jan. 21	2	4
Light	Oct. 28-Jan. 21	1	2

	Season Dates	Limits Bag	Limits Possession
Oregon			
Ducks:			
Zone 1:			
Columbia Basin Unit	Oct. 14-Jan. 21	6	12
Rest of Zone 1	Oct. 14-Jan. 14	6	12
Zone 2	Oct. 7-Jan. 7	6	12
Coots	Same as for ducks	25	25
Geese:			
Northwest General Goose Zone:			
Dark Geese	Oct. 14-Jan. 14	4	8
Light Geese	Oct. 14-Jan. 14	3	6
Northwest Special Permit Zone (9):			
Dark Geese	Nov. 25-Jan. 20	3	6
Dusky Canada geese		1 per season	
Cackling Canada geese		2	4
Light Geese	Nov. 25-Jan. 20	3	6
Southwest General Zone (10):			
Dark Geese	Oct. 14-Jan. 21	4	8
Light Geese	Oct. 14-Jan. 21	3	6
Eastern Zone:			
Klamath, Harney, Lake and Malheur Counties:			
Dark Geese	Oct. 7-Jan. 14	4	8
Cackling Canada geese		1	2
White-fronted geese		2	4
Light Geese	Oct. 7-Jan. 14	3	6
Remainder of Eastern Zone:			
Dark Geese	Oct. 14-Jan. 21	4	8
Cackling Canada geese		1	2
White-fronted geese		2	4
Light Geese	Oct. 14-Jan. 21	3	6
Brant (4)	Jan. 6-Jan. 21	2	4
Utah (11)			
Ducks:			
Zone 1	Oct. 7-Jan. 7	6	12
Zone 2	Oct. 14-Jan. 14	6	12
Coots	Same as for ducks	25	25
Geese:		5	6
Light	Oct. 7-Jan. 14	3	6
Dark:			
Washington County (12)	Oct. 14-Jan. 21	2	4
Rest of State	Oct. 7-Jan. 14	2	4
Washington			
Ducks:			
East Zone	Oct. 14-Jan. 21	6	12
West Zone	Oct. 14-Jan. 14	6	12
Coots	Same as for ducks	25	25
Geese (13):			
Eastern Management Areas 1, 2, and 3 (14)	Oct. 14-Jan. 21	4	8

	Season Dates	Limits Bag	Limits Possession
Washington (cont.)			
Western Management Area 1	Oct. 14-Dec. 31	4	6
Western Management Area 2 (15)			
North of Kalama River (15)	Nov. 25-Jan. 21	4	8
Dusky Canada geese		1	1
Cackling Canada geese		2	4
South of Kalama River (15)	Nov. 26-Jan. 21 &	4	8
	Feb. 5-Mar. 10	4	8
Dusky Canada geese		1	1
Cackling Canada geese		2	4
Western Management Area 3	Oct. 14-Jan. 21	4	8
Brant (16)	Dec. 9-Dec. 24	2	4
Wyoming			
Ducks	Sept. 30-Dec. 31	6	12
Coots	Same as for ducks	25	25
Dark Geese	Sept. 30-Jan. 4	4	8

(1) In Arizona, the daily limit may include no more than either 1 female mallard or 1 Mexican-like duck, but not both; and not more than 2 female mallards, 2 Mexican-like ducks, or 1 of each, may be in possession.
(2) In Arizona, in Yuma County, La Paz County, Game Management Units 13B, 15, and that portion of Unit 16 lying within Mohave County, the bag and possession limit is 2 and 4 for Canada geese and 3 and 6 for light geese, respectively.
(3) In California, the dark goose limits may be expanded to 2 per day and 4 in possession provided they are Canada geese other than cackling geese for which the daily limit is 1. Aleutian geese may not be taken.
(4) State permit is required.
(5) In Idaho, the season on light geese is closed in Fremont and Teton Counties.
(6) In Montana, check State regulations for special seasons/exceptions in Freezeout Lake WMA; Canyon Ferry, Flathead; Deer Lodge County; and Missoula County.
(7) In Nevada, there is no open season on light geese in Ruby Valley within Elko and White Pine Counties, White River Valley of Nye County, and Pahranagat Valley of Lincoln County.
(8) In New Mexico, the bag limit is 1 common moorhen daily and 2 in possession; there is no open season on the purple gallinule.
(9) In Oregon, the Northwest Special Permit Zone is closed to all goose hunting, except for designated areas. See State regulations for specific boundary descriptions, times, days, and other conditions of the special permit season.
(10) In Oregon, that portion of Coos, Curry, and Douglas Counties west of US 101 is closed to all Canada goose hunting.
(11) In Utah, the shooting hours are 8:00 a.m. to sunset on October 7 and November 4.
(12) In Utah, the Washington County season is for Canada geese only.
(13) In Washington, daily bag and possession limits may include no more than 3 and 6 light geese respectively.
(14) In Washington, in State Goose Area 1, hunting is only on Saturdays, Sundays, Wednesdays, and certain holidays. In State Goose Area 2, hunting is only on Saturdays, Sundays, Tuesdays, Wednesdays, and certain holidays. See State regulations for details, including shooting hours.
(15) In Washington, see State regulations for specific dates and conditions of permit hunts and closures for Canada geese.
(16) In Washington, brant may be hunted in Skagit and Pacific Counties only; and only on December 9, 10, 11, 13, 15, 16, 17, 19, 21, 23, and 24.

4. Section 20.106 is amended as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and Hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 29, 1995, Federal Register (60 FR 45020).

Note: The following seasons are in addition to the seasons published previously in the August 31, 1995 Federal Register (60 FR 45628).

	Season Dates	Limits Bag	Limits Possession
CENTRAL FLYWAY			
. . . . .			
Kansas (6)	Nov. 5-Jan. 1	2	4
. . . . .			
Oklahoma	Oct. 28-Jan. 28	3	6
Texas (1)			
Zone A	Nov. 11-Feb. 11	3	6
Zone B	Dec. 2-Feb. 11	3	6
Zone C	Jan. 6-Feb. 11	3	6
. . . . .			

(1) Each hunter participating in a regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to any authorized law enforcement official upon request.

. . . . . .

(6) In Kansas, the season is only open in the portions of southcentral and southwest Kansas bounded by Highways K-4 to K-14, K-14 to K-61, K-61 to US-54, US-54 to US-160, US-160 to US-83, US-83 to K-156, K-156 to US-183, US-183 to K-4. Shooting hours are sunrise to 2:00 p.m. Each hunter participating in a regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit which must be displayed to any authorized law enforcement official upon request. In addition, the Federal sandhill crane hunting permit must be validated by the State of Kansas. No person while hunting cranes shall use or possess shot other than steel or such shot approved as nontoxic shot.

5. Section 20.107, including the title, is revised to read as follows:

§20.107 Seasons, limits, and shooting hours for swans.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Hunting is by State permit only.

NOTE: Successful permittees must immediately validate their harvest by that method required in State regulations.

	Season Dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
North Carolina	Nov. 20-Jan. 31	1 tundra swan per season	
Virginia	Dec. 4-Jan. 31	1 tundra swan per season	
CENTRAL FLYWAY (1)			
Montana	Sept. 30-Dec. 31	1 tundra swan per season	
North Dakota	Sept. 30-Nov. 26	1 tundra swan per season	
South Dakota	Sept. 30-Nov. 28	1 tundra swan per season	
PACIFIC FLYWAY (1)(2)			
Montana	Oct. 14-Dec. 1	1 swan per season	
Nevada (3)	Oct. 21-Jan. 7	1 swan per season	
Utah (3)	Oct. 7-Dec. 3	1 swan per season	

(1) See State regulations for description of area open to swan hunting.
(2) Any species of swan may be taken.
(3) Harvests of trumpeter swans will be limited by quotas established in the September 27, 1995, Federal Register. When it has been determined that the quota of trumpeter swans allotted to Nevada and Utah will have been filled, the season for taking of any swan species in the respective State will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

8. Section 20.109 is revised to read as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise restricted by State regulations. Area descriptions were published in the August 29 and September 27 Federal Registers.

Limits: The daily bag limit may include no more than 3 migratory game birds, singly or in the aggregate. The possession limit is twice the daily bag limit.

These limits apply to falconry during both regular hunting seasons and extended falconry seasons -- unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas.

Although many States permit falconry during the gun seasons, only extended falconry seasons are shown below. Please consult State regulations for details.

NOTE: The following seasons are in addition to the seasons published previously in the August 31, 1995 Federal Register (60 FR 45628).

	Extended Falconry Dates
ATLANTIC FLYWAY	
Florida	
Ducks and coots	Nov. 1-Nov. 13 & Jan. 21-Feb. 28
Georgia	
Sea Ducks	Nov. 15-Nov. 21 & Jan. 21-Feb. 28
Ducks, mergansers, gallinules, and coots	Nov. 15-Nov. 21 & Nov. 27-Dec. 6 & Jan. 21-Feb. 28
Maine	
Ducks, mergansers, and coots:	
North Zone	Oct. 28-Nov. 2 & Nov. 20-Jan. 17
South Zone	Jan. 5-Jan. 27 & Jan. 29-Mar. 2

	Extended Falconry Dates
Maryland	
Ducks	Dec. 1-Dec. 13 & Jan. 21-Mar. 4
Canada Geese	Closed
Brant	Jan. 21-Mar. 10
Massachusetts	
Ducks, mergansers, and coots:	
Berkshire Zone	Oct. 6 only & Nov. 26-Jan. 20
Central Zone	Oct. 6-Oct. 11 & Oct. 22-Nov. 13 & Dec. 24-Jan. 20
Coastal Zone	Oct. 6-Oct. 18 & Oct. 29-Nov. 22 & Jan. 2-Jan. 20
New Hampshire	
Ducks, mergansers, and coots:	
Inland Zone	Nov. 5-Nov. 21 & Dec. 10-Jan. 18
Coastal Zone (1)	Oct. 4 only & Oct. 16-Nov. 21 & Dec. 31-Jan. 18
New Jersey	
Woodcock:	
North Zone	Oct. 1-Oct. 13 & Nov. 18-Jan. 15
South Zone	Oct. 1-Nov. 5 & Dec. 3-Dec. 15 & Dec. 24-Jan. 15

	Extended Falconry Dates
New Jersey (cont.)	
Ducks:	
North Zone	Oct. 1-Oct. 13 & Oct. 29-Nov. 22 & Dec. 28-Jan. 15
South Zone	Oct. 1-Oct. 20 & Oct. 29-Nov. 21 & Jan. 3-Jan. 15
Coastal Zone	Oct. 1-Oct. 29 & Nov. 19-Dec. 7 & Jan. 7-Jan. 15
New York	
Ducks and coots:	
Long Island Zone	Nov. 1-Nov. 21 & Nov. 27-Nov. 30
Northeastern Zone	Oct. 1-Oct. 6 & Oct. 30-Oct. 31
Southeastern Zone	Oct. 1-Oct. 13 & Oct. 30-Oct. 31
Western Zone	Oct. 1-Oct. 18
Pennsylvania	
Ducks:	
North Zone	Oct. 22-Oct. 27 & Dec. 2-Jan. 21
South Zone	Oct. 15-Nov. 19 & Dec. 31-Jan. 20
Northwest Zone	Oct. 15-Nov. 3 & Dec. 16-Jan. 21
Lake Erie Zone	Dec. 5-Dec. 8 & Dec. 16-Jan. 21

	Extended Falconry Dates
Pennsylvania (cont.)	
Canada Geese:	
North Zone	Closed
South Zone	Closed
Erie, Mercer, and Butler	Oct. 15-Nov. 5
Crawford	Oct. 15-Nov. 3 & Dec. 1-Jan. 6
Brant	Nov. 26-Jan. 21
South Carolina	
Ducks, mergansers, and coots	Oct. 6-Nov. 21 & Nov. 26-Dec 5
Virginia	
Ducks, mergansers, coots, moorhens, and gallinules	Nov. 19-Nov. 20 & Nov. 26-Dec. 10 & Jan. 21-Feb. 29
Canada Geese	Closed
Brant	Nov. 15-Nov. 20 & Nov. 26-Dec. 6 & Jan. 21-Feb. 29
Swan	Nov. 15-Dec. 3 & Feb. 1-Feb. 29
MISSISSIPPI FLYWAY	
Arkansas	
Mourning doves	Oct. 11-Nov. 26
Ducks, mergansers, and coots	Dec. 11-Dec. 15 & Dec. 22-Dec. 25 & Jan. 22-Feb. 29

	Extended Falconry Dates
Illinois	
Ducks, mergansers, and coots:	
North Zone	Oct. 8-Oct. 13 & Dec. 3-Dec. 5 & Feb. 1-Mar. 10
Central Zone	Oct. 21-Oct. 27 & Dec. 17-Dec. 18 & Feb. 1-Mar. 10
South Zone	Oct. 28-Nov. 3 & Dec. 24-Dec. 25 & Feb. 1-Mar. 10
Indiana	
Ducks, mergansers, and coots:	
North Zone	Sept. 24-Oct. 20 & Oct. 25-Oct. 27 & Dec. 13-Dec. 30
South Zone	Oct. 1-Oct. 27 & Nov. 2-Nov. 17 & Jan. 2-Jan. 6
Ohio River Zone	Oct. 13-Oct. 27 & Nov. 6-Dec. 8
Iowa	
Ducks, mergansers, and coots:	
North Zone	Sept. 28-Sept. 30 & Oct. 1-Oct. 14 & Nov. 29-Jan. 7
South Zone	Sept. 26-Sept. 30 & Oct. 1-Oct. 20 & Dec. 7-Jan. 7
Dark Geese:	
North Zone	Dec. 9-Jan. 14
South Zone	Dec. 23-Jan. 28

	Extended Falconry Dates
Iowa (cont.)	
Light Geese:	
North Zone	Jan. 11-Jan. 14
South Zone	Jan. 11-Jan. 12
Kentucky	
Ducks, mergansers, and coots:	
West Zone	Nov. 5-Nov. 22 & Nov. 27-Dec. 1 & Jan. 17-Jan. 31
East Zone	Nov. 5-Nov. 22 & Nov. 27-Dec. 6 & Jan. 22-Jan. 31
Canada Geese:	
Western Goose Zone	Nov. 5-Nov. 22 & Nov. 27-Dec. 1
Pennyroyal/Coalfield Zone	Nov. 5-Dec. 12 & Jan. 17-Jan. 31
Rest of State	Nov. 5-Dec. 12
White-fronted, light geese and brant	Nov. 5-Nov. 22
Michigan	
Ducks, mergansers, coots, and moorhens:	
North Zone	Sept. 7-Sept. 29 & Nov. 19-Dec. 12 & Mar. 1-Mar. 10
Middle Zone	Sept. 7-Oct. 6 & Nov. 26-Dec. 12 & Mar. 1-Mar. 10
South Zone	Sept. 7-Oct. 13 & Dec. 3-Dec. 12 & Mar. 1-Mar. 10

	Extended Falconry Dates
Minnesota	
Ducks, mergansers, coots, and moorhens	Sept. 1-Sept. 29 & Nov. 19-Dec. 16
Canada Geese:	
West Zone:	
West Central Zone	Oct. 9-Oct. 13 & Nov. 4-Dec. 16
Rest of West Zone	Nov. 9-Dec. 16
Northwest Zone	Nov. 9-Dec. 16
Fergus Falls/Alexandria Zone:	
West Zone	Nov. 9-Dec. 8
Rest of Fergus Falls/Alexandria Zone	Nov. 19-Dec. 8
Southeast Zone:	
Twin Cities Metro Zone and Olmstead County	Dec. 5-Dec. 14
Rest of Southeast Zone	Dec. 9-Dec. 16
Rest of State	Nov. 19-Dec. 16
White-fronted Geese and Brant	
West Zone	Nov. 9-Dec. 16
Northwest Zone	Nov. 9-Dec. 16
Southeast Zone	Dec. 9-Dec. 16
Rest of State	Nov. 19-Dec. 16
Mississippi	
Mourning doves	Nov. 6-Nov. 17 & Jan. 14-Feb. 17
Ducks, mergansers, and coots	Nov. 25-Dec. 1 & Jan. 22-Mar. 2

	Extended Falconry Dates
Missouri	
Ducks, mergansers, and coots:	
North Zone	Sept. 9-Sept. 17 & Oct. 5-Oct. 27 & Dec. 17-Jan. 10
Middle Zone	Sept. 9-Sept. 17 & Oct. 5-Nov. 3 & Dec. 24-Jan. 10
South Zone	Sept. 9-Sept. 17 & Oct. 5-Nov. 21
Ohio	
Ducks, mergansers, and coots:	
Pymatuning Area	Oct. 21-Nov. 3 & Dec. 16-Jan. 21
Rest of State: North Zone	Nov. 26-Dec. 15 & Dec. 30-Jan. 21
South Zone	Nov. 3-Dec. 15
Ohio River Zone	Oct. 30-Dec. 11
Tennessee	
Ducks, mergansers, and coots:	
Reelfoot Zone	Sept. 14-Sept. 30 & Oct. 1-Nov. 4
State Zone	Sept. 14-Sept. 30 & Oct. 1-Nov. 4
Wisconsin	
Rails, snipe, moorhens, and gallinules:	
North Zone	Sept. 1-Sept. 29 & Oct. 9-Oct. 13 & Nov. 24-Dec. 16
South Zone	Sept. 15-Sept. 29 & Oct. 9-Oct. 16 & Feb. 20-Mar. 10
Woodcock	Sept. 1-Sept. 15 & Nov. 20-Dec. 16
Ducks, mergansers, and coots:	
North Zone	Sept. 1-Sept. 29 & Oct. 9-Oct. 13 & Nov. 24-Dec. 16
South Zone	Sept. 15-Sept. 29 & Oct. 9-Oct. 16 & Feb. 20-Mar. 10
CENTRAL FLYWAY	
Colorado	
Ducks, mergansers, and coots	Sept. 18-Sept. 22 & Mar. 1-Mar. 10
Kansas	
Ducks, mergansers, and coots	
High Plains	Feb. 24-Mar. 9
Low Plains	Oct. 10-Oct. 16 & Oct. 30-Nov. 10 & Feb. 18-Mar. 9
Montana (2)	
Ducks, mergansers, and coots:	
Zone 1	Sept. 18-Sept. 29 & Nov. 27-Dec. 8
Zone 2	Sept. 18-Sept. 29 & Oct. 23-Nov. 3

	Extended Falconry Dates
Nebraska (3)	
Ducks, mergansers, and coots:	
High Plains	Sept. 28-Oct. 6 & Dec. 4-Dec. 8 & Jan. 3-Jan. 12
Low Plains:	
Zones 1 and 2	Sept. 28-Oct. 13 & Oct. 16-Oct. 20 & Dec. 18-Jan. 12
Zones 3 & 4	Sept. 28-Sept. 29 & Oct. 2-Oct. 6 & Dec. 4-Jan. 12
New Mexico (2)	
Ducks, coots, moorhens, snipe, sora and Virginia rail:	
North Zone	Oct. 16-Oct. 20 & Nov. 11-Nov. 20
South Zone	Jan. 22-Feb. 5
Oklahoma	
Ducks, mergansers, and coots:	
High Plains	Sept. 18-Oct. 1 & Jan. 5 only
Low Plains:	
Zone 1	Dec. 4-Dec. 15 & Jan. 8-Feb. 2
Zone 2	Dec. 4-Dec. 15 & Jan. 15-Feb. 19

	Extended Falconry Dates
South Dakota	
Ducks, mergansers, and coots:	
Low Plains:	
North Zone	Sept. 4-Sept. 29 & Nov. 29-Dec. 19
Middle Zone	Sept. 4-Oct. 6 & Dec. 6-Dec. 19
South Zone	Sept. 4-Oct. 13 & Dec. 13-Dec. 19
Texas	
Ducks, mergansers, and coots:	
High Plains	Jan. 22-Feb. 5
Low Plains	Jan. 22-Feb. 28
Woodcock	Nov. 25-Nov. 27 & Feb. 1-Mar. 10
PACIFIC FLYWAY	
Arizona	
Doves	Sept. 11-Oct. 27
Ducks and mergansers:	
North Zone	Oct. 1-Oct. 12
South Zone	Jan. 22-Feb. 4

	Extended Falconry Dates
California	
Ducks and mergansers:	
Northeastern Zone	Jan. 8-Jan. 21
Colorado River Zone	Jan. 22-Feb. 4
Southern Zone	Jan. 22-Feb. 4
Balance-of-State Zone	Jan. 22-Feb. 4
Southern San Joaquin Zone	Jan. 22-Feb. 4
Coots:	
Northeastern Zone	Jan. 8-Jan. 21
Southern Zone	Jan. 22-Feb. 4
Balance-of-State Zone	Jan. 22-Feb. 4
Colorado River Zone	Jan. 22-Feb. 4
Southern San Joaquin Zone	Jan. 22-Feb. 4
Canada Geese:	
Northeastern Zone	Jan. 8-Jan. 21
Southern Zone	Jan. 22-Feb. 4
Balance-of-State Zone (4)	Jan. 22-Feb. 4
Southern San Joaquin Zone	Jan. 22-Feb. 4
White-fronted Geese:	
Northeastern Zone	Oct. 30-Jan. 21
Southern Zone	Jan. 22-Feb. 4
California (cont.)	
Balance-of-State Zone	Oct. 21-Oct. 27 & Dec. 15-Feb. 4
Southern San Joaquin Zone	Oct. 21-Oct. 27 & Jan. 22-Feb. 4
Brant:	
Northeastern Zone	Oct. 7-Oct. 31 & Dec. 1-Jan. 21
Southern Zone	Oct. 21-Oct. 31 & Dec. 1-Feb. 4
Balance-of-State Zone	Oct. 21-Oct. 31 & Nov. 31-Feb. 4
Southern San Joaquin Zone	Oct. 21-Oct. 31 & Nov. 31-Feb. 4
Light Geese:	
Northeastern Zone	Jan. 8-Jan. 21
Southern Zone	Jan. 22-Feb. 4
Balance-of-State Zone	Jan. 22 Feb. 4
Southern San Joaquin Zone	Jan. 22-Feb. 4
Colorado	
Ducks, mergansers, and coots	Feb. 26-Mar. 10
Montana (1)	
Ducks and coots	Feb. 26-Mar. 10
Geese	Jan. 8-Jan. 14
Nevada (5)	
Ducks, mergansers, coots, moorhens, and snipe:	
Clark County	Jan. 22-Feb. 18
Rest of State	Jan. 15-Jan. 28

	Extended Falconry Dates
New Mexico (1)	
Ducks, coots, moorhens, snipe, sora and Virginia rail	Jan. 22-Feb. 4
Geese:	
North Zone	Nov. 15-Dec. 22 & Jan. 22-Jan. 28
South Zone	Oct. 14-Oct. 27 & Jan. 22-Jan. 28
Oregon	
Ducks, mergansers, and coots:	
Zone 1:	
Columbia Basin	Jan. 22-Jan. 28
Rest of Zone 1	Jan. 15-Jan. 28
Zone 2	Oct. 1-Oct. 6
Snipe	
Zone 1	Oct. 7-Oct. 13
Zone 2	Jan. 8-Jan. 21
Utah	
Ducks, mergansers, and coots:	
Zone 1	Sept. 30-Oct. 6 & Feb. 3-Feb. 9
Zone 2	Feb. 5-Feb. 18
Light Geese	Jan. 15-Jan. 21
Dark Geese:	
Washington County	Oct. 7-Oct. 13
Rest	Jan. 15-Jan. 21
Washington	
Ducks, mergansers and coots:	
West Zone	Jan. 24-Feb. 6
East Zone	Mar. 4-Mar. 10
Geese (6)	Jan. 22-Jan. 28
Snipe	Oct. 1-Oct. 13
Wyoming	
Ducks, mergansers, and coots	Sept. 1-Sept. 14

(1) In New Hampshire, the daily bag limit is 2 on October 4.
(2) The daily bag limit is 2 and the possession limit is 6.
(3) In Nebraska, the bag limit is 3, see State regulations for additional information on daily bag limits.
(4) In California, the falconry season for Canada geese is closed in Del Norte and Humbolt Area, the Sacramento Valley Area, and in the San Joaquin Valley Area.
(5) In Nevada, the bag limit is 2 and the possession limit is 4.
(6) In Washington, the extended falconry season on geese is Statewide, except for that portion of Western Goose Management Area 2 south of the Kalama River for which there is no extended season.

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federal register

Friday
September 29, 1995

Part XII

Department of Education

34 CFR Part 218 et al.

Impact Aid Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 218, 219, 221, 222, and 223

RIN 1810–AA00

Impact Aid Program

AGENCY: Department of Education
ACTION: Final regulations.

SUMMARY: The Secretary issues these final regulations governing the Impact Aid Program under title VIII of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994. The program, in general, provides assistance for maintenance and operations costs to local educational agencies (LEAs) that are affected by Federal activities. These final regulations implement changes from the previous Impact Aid laws, Public Law 81–874 and Public Law 81–815, which were repealed when title VIII of the Elementary and Secondary Education Act was enacted, and replace the regulations currently found at 34 CFR parts 218, 219, 221, 222, and 223.

EFFECTIVE DATE: These regulations take effect October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Catherine Schagh, U.S. Department of Education, 600 Independence Avenue, SW, Room 4200 Portals Building, Washington, DC 20202–6244. Telephone: (202) 260–3907. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The 1994 reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA) revised many Federal elementary and secondary education programs, including the Impact Aid Program. Under that program, assistance is provided for maintenance and operations costs to LEAs affected by Federal activities, including the presence of tax-exempt Federal property and an increased student population due to Federal property ownership or activities. The final regulations in this document implement many of the changes made by these amendments and are being published to clarify the operation of title VIII of the ESEA (referred to in these regulations as "the Act") for grantees. These final regulations also implement a change made by an amendment to the General Education Provisions Act (GEPA).

In addition, on March 4, 1995, President Clinton announced the Regulatory Reinvention Initiative, which directed heads of Federal departments and agencies to review all existing regulations to eliminate those that are outdated and modify others to increase flexibility and reduce burden. The Department has undertaken a thorough review of the existing Impact Aid Program regulations in light of this initiative.

As a part of that process, the Secretary in this final regulation has removed regulations that are obsolete due to changes made in the statute by the Improving America's Schools Act of 1994 (IASA), or that are unnecessary due to the fact that they simply repeated statutory provisions. In addition, the Secretary has reorganized, streamlined, and revised the remaining regulations so that they are more logically organized, clearly stated, and easier to use. In that process, five parts have been reduced to one; and the codified pages of Impact Aid regulations have been reduced by more than 50 percent. These reductions are due primarily to changes made by the IASA, which removed several portions of the Impact Aid Program (e.g., the disaster assistance program, previously codified in part 219, and much of the school construction program, previously codified in part 221), and to the consolidation and streamlining of remaining provisions.

Except where changes were necessary to conform the previous regulations to the new Impact Aid law (title VIII of the ESEA), and for a few minor procedural changes, these final regulations contain the same substantive provisions as in the previous regulations. The Secretary intends to publish a notice of proposed rulemaking (NPRM) in the near future to implement a few provisions in the new law that are not included in these final regulations, and to make any substantive changes that have been identified as needed under the Secretary's reinvention review.

General (Subpart A)

Subpart A has been reorganized to include all of the Impact Aid regulations with general applicability. These regulations previously were in subparts A, B, C, E, and I of part 222.

§ 222.2 What definitions apply to this part?

The following program-specific definitions have been removed as unnecessary: Arrangements, County, Current expenditures, Current fiscal year of the local educational agency, Entitlement, Parent-pupil survey (incorporated into § 222.35), Prorated entitlement, and School year. The remaining definitions in this section are generally applicable to all of part 222.

In § 222.2(a)(1), the Secretary lists eight terms defined in section 8013 of the ESEA that are used as defined in that section. The Secretary has clarified the meanings of the remaining five terms in section 8013 as follows: "Federal property," "Local educational agency," and "Revenues derived from local sources" are found in § 222.2(c); and "Free public education" is found in § 222.30 (as indicated in § 222.2(a)(2)).

§ 222.10 How long must a local educational agency retain records?

The Department-wide record retention requirement in section 443(a) (previously section 437(a)) of the GEPA was amended by the IASA to reduce the period during which recipients must retain records from five to three years. This change is implemented for the Impact Aid Program in § 222.10, which provides that an LEA now must keep its records until the later of three years after the last payment it receives for a fiscal year, or resolution of any pending audit or review and any resulting payment adjustments.

Payments for Federal Property Under Section 8002 of the Act (Subpart B)

The regulations in subpart B implement section 8002 of the ESEA, previously section 2 of Pub. L. 81–874. These regulations, which have been substantially streamlined by removing payment and obsolete provisions, previously were in subpart J of part 222.

§ 222.21 What requirements must a local educational agency meet concerning Federal acquisition of real property within the local educational agency?

The general ten percent eligibility standard in section 8002 of the ESEA (generally requiring federally owned property acquired since 1938 to comprise at least ten percent of the LEA's aggregate assessed value as of the time of acquisition) was expanded by the ESEA under limited circumstances. Section 222.21(a)(1)(ii) implements the expanded standard in section 8002(a)(1)(C)(ii) of the ESEA concerning the assessed value that is used for the purpose of determining eligibility under section 8002(a)(1). That new standard provides that, under certain specific circumstances, the assessed value used for that eligibility test may be the assessed value in the first year preceding or succeeding Federal acquisition, whichever is greater, rather than the assessed value for the year of Federal acquisition as generally required.

Section 222.21(a)(2) incorporates the expanded eligibility standard in section 8002(e), allowing certain additional districts containing Forest Service property to qualify under the ten percent standard if they have between 20,000 and 60,000 acres of Forest Service land (rather than 50,000–55,000 acres as previously was required), and their counties were chartered either in

1875 or 1890 (rather than in 1875 only as previously required).

§ 222.22 How does the Secretary treat compensation from Federal activities for purposes of determining eligibility and payments?

Section 8002(a)(2) of the ESEA retained a second eligibility standard, which provides that an LEA may not receive a payment under section 8002 if it is otherwise substantially compensated through Federal activities related to the Federal property. This standard is implemented in § 222.22(a), which clarifies that the Secretary will base the application of this standard upon the revenues that an LEA receives from the Federal activities during the previous fiscal year, rather than during the current year as previously occurred. This change is consistent with the new payment provision in section 8002(b)(1) of the ESEA, under which these revenues for the previous year must be deducted from the amount that an LEA otherwise would be paid under section 8002.

In addition, § 222.22(b) clarifies that the lack of substantial compensation standard will be met only if the revenues received the preceding year do not equal or exceed the maximum payment amount under section 8002(b) of the ESEA. This is changed from the current regulations, under which the revenues may not equal or exceed the "need-based" entitlement amount. This change is necessary because the need-based entitlement has been removed from the statute as a basis for payment.

Payments for Federally Connected Children Under Section 8003(b) and (e) of the Act (Subpart C)

The regulations in subpart C implement the basic payment provisions for federally connected children under section 8003 of the ESEA, including the provisions in section 8003(b) for basic support payments. Under these provisions, payments are based upon certain categories of federally connected children. Similar regulatory provisions implementing section 3 of Pub. L. 81–874 previously were in subparts A, C, and D of part 222.

§ 222.34 If an applicant makes a second membership count, when must that count be made?

Basic support payments under section 8003 of the ESEA are based upon the number of federally connected children in average daily attendance (ADA) at an LEA, for whom the LEA provided a free public education during the preceding school year. LEAs determine their number of federally connected children through one or more membership counts during the school year. If an LEA makes a second membership count, it previously has been required to do so during the "last quarter of the school year." Because year-round schools often are not based upon "quarters," § 222.34 has been revised to clarify that if an LEA makes a second membership count, it must do so after January 31 but before May 15. This time period for the optional second membership count is to avoid the double counting of certain military children that could now otherwise occur due to the new statutory provision in section 8006 of the ESEA (payments for sudden and substantial increases of eligible children beginning with May 15).

§ 222.35 How does a local educational agency count the membership of its federally connected children?

Membership counts are made by LEAs either through a parent-pupil survey or a source check, or both. Section 222.35 explains what information must be obtained in a parent-pupil survey and a source check. The Secretary removes the previous requirement that an LEA obtain the name of each child's teacher on the parent-pupil survey form because it is unnecessary.

§ 222.36 What minimum number of federally connected children must a local educational agency have to receive a payment on behalf of those children under section 8003(b) and (e)?

Sections 8003(a)(3) and (b)(1)(B) of the ESEA establish minimum thresholds for the number of federally connected children that an LEA must have to receive a payment under section 8003 (except for a hold harmless payment under section 8003(e) for fiscal year 1995). Section 222.36, which implements these provisions, clarifies that if an LEA does not have the minimum number of federally connected children described in section 8003(a)(1)(F) or (G) (federally connected children who either reside on or whose parents are employed on Federal property, but not both) necessary to meet the special rule described in section 8003(a)(3), those children are not counted for the purpose of section 8003 payments, or in determining whether the LEA meets the minimum threshold under section 8003(b)(1)(B).

§ 222.38 What is the maximum basic support payment that a local educational agency may receive under section 8003(b)?

Section 222.38 describes the maximum basic support payment that an LEA may receive under section 8003(b)(1)(C) of the ESEA.

§ 222.39 How does a State educational agency identify generally comparable local educational agencies for local contribution rate purposes?

§ 222.40 How does a local educational agency select a local contribution rate based on generally comparable local educational agencies?

§ 222.41 How does a State educational agency compute local contribution rates based upon generally comparable local educational agencies?

Section 8003(b)(1)(C)(iii) of the ESEA establishes that one of the factors upon which an LEA's maximum basic support amount may be based is a local contribution rate (LCR) based on generally comparable LEAs as determined under the regulations implementing Public Law 81–874 that were in effect on January 1, 1994. Although the Secretary has revised §§ 222.39–222.41 slightly for clarity and to make necessary technical changes consistent with the reauthorized statute, those regulations retain the regulatory method for determining LCRs that was in effect on January 1, 1994.

Under those regulations, the term "heavily impacted LEA" is changed to "significantly impacted LEA" to avoid confusion with the section 8003(f) "heavily impacted" LEAs, which include LEAs with different characteristics. Under these amended regulations, "significantly impacted" is limited to two types of LEAs: (1) any LEA having 20 percent or more of its ADA composed of children described under section 3(a) of Public Law 81–874 (now described under section 8003(a)(1)(A)–(C) of the ESEA); and (2) any LEA having 50 percent or more of its ADA composed of children described under both sections 3(a) and (b) of Public Law 81–874 (now described under section 8003(a)(1)(A)–(G) of the ESEA).

The Secretary revises the previous regulations to provide that LCRs are computed based upon data from the third fiscal year preceding the fiscal year for which the LCR is computed, rather than from the second preceding fiscal year as in the previous regulations. This change is based upon section 8003(c) of the ESEA, which specifies that basic support payments are based upon one year older data than were used when the previous LCR regulations initially were adopted.

Payments Under Section 8003(d) of the Act for Local Educational Agencies That Serve Children with Disabilities (Subpart D)

The regulations in subpart D implement the provisions in section 8003(d) of the ESEA governing payments to LEAs that serve certain federally connected children with

disabilities. Similar regulatory provisions, implementing section 3(d)(2)(C) of Pub. L. 81–874, previously were in subpart H of part 222.

§ 222.50 What definitions apply to this subpart?

The following definitions in the Individuals with Disabilities Education Act or its implementing regulations, or in 34 CFR § 77.1, have been added to this section: "children with specific learning disabilities," "individualized education program," "intermediate educational unit," "preschool," and "special education." These definitions currently apply to Impact Aid payments for federally connected children with disabilities, but the full definitions were not included in the previous regulations. Because these terms are used in the text of the regulations and recipients of section 8003(d) funds are subject to them, the full text of the definitions are now included in the regulations for the convenience of applicant LEAs and other readers.

§ 222.51 Which children may a local educational agency count for payment under section 8003(d)?

Section 222.51 implements section 8003(d)(1) of the ESEA, which provides for payments based upon certain categories of federally connected children with disabilities. Previously, only federally connected children with disabilities who had parents on active duty in the uniformed services or who resided on Indian lands were eligible to be counted for an additional payment to an LEA. Under section 8003(d)(1), those two categories of federally connected children with disabilities, as well as children with parents who are foreign military officers, may be counted by an LEA.

Under the previous statute (Pub. L. 81–874), all LEAs received a percentage increase in payment for each federally connected child with disabilities served by the schools within the LEA. Under section 8003(d), a separate appropriation is provided for payments for children with disabilities and weights are assigned to the different types of eligible children. For children with parents on active duty in the uniformed services or foreign military parents but who do not reside on Federal property, an LEA receives one half of the amount that it receives for the other categories of eligible federally connected children with disabilities.

Additional Assistance for Heavily Impacted Local Educational Agencies under Section 8003(f) of the Act (Subpart E)

The regulations in subpart E implement the provisions of section 8003(f) of the ESEA, which provides additional assistance to certain heavily impacted LEAs. Although section 8003(f) is similar to section 3(d)(2)(B) of Public Law 81–874, there are several significant additions to this section, including a provision for additional assistance for LEAs affected by unusual geographic factors similar to section 3(d)(3)(B)(ii) of the former law. The regulations implementing these former provisions were previously in subpart K of part 222 and §§ 222.36 and 222.37, respectively.

§ 222.62 Which local educational agencies are eligible to apply for an additional payment under section 8003(f)?

Section 8003(f) adds several new categories of LEAs that are considered to be heavily impacted and eligible to apply for additional assistance under the section. Section 222.62 describes the primary characteristics of the categories of heavily impacted LEA applicants.

§ 222.63 What other requirements must a local educational agency meet in order to be eligible for financial assistance under section 8003(f)(2)(A)?

§ 222.72 How does the Secretary determine a maximum payment for local educational agencies that are eligible for financial assistance under section 8003(f)(2)(A) and § 222.63?

Maximum payments for heavily impacted LEAs eligible under section 8003(f)(2)(A) are calculated in accordance with section 8003(f)(3). Section 222.63 specifies the requirements in addition to those in § 222.62(a), (b), or (c) that an LEA must meet in order to be eligible for a payment under section 8003(f)(2)(A). These requirements are similar to requirements for LEAs that applied for section 3(d)(2)(B) assistance under Public Law 81–874, including that the LEA must be making a reasonable tax effort as further described in §§ 222.66–222.71 and availing itself of all other potential revenues such as State aid. Section 222.72 establishes how payments for LEAs eligible under section 8003(f)(2)(A) are calculated in accordance with the new statutory provisions.

§ 222.64 What other requirements must a local educational agency meet in order to be eligible for financial assistance under section 8003(f)(2)(B)?

§ 222.73 How does the Secretary determine a maximum payment for local educational agencies that are eligible for financial assistance under section 8003(f)(2)(B) and § 222.64?

Payments for heavily impacted LEAs eligible under section 8003(f)(2)(B) are calculated by increasing the LCR of an eligible LEA if the LEA's current expenditures are affected by unusual geographic factors. Section 222.64 specifies the requirements in addition to those in § 222.62(d) that an LEA must meet in order to be eligible for this type of payment.

These requirements are the same as the requirements for LEAs that applied for section 3(d)(3)(B)(ii) assistance under Pub. L. 81–874 and that were in § 222.37 of the former regulations. Like LEAs described in section 8003(f)(2)(A), an eligible LEA under this section also must be making a reasonable tax effort as further described in §§ 222.66–222.71 and availing itself of all other potential revenues such as State aid. Section 222.73 establishes how payments for LEAs eligible under section 8003(f)(2)(B) are calculated.

§ 222.74 How does the Secretary identify generally comparable local educational agencies for purposes of section 8003(f)?

Section 8003(f) uses the term "generally comparable LEAs" in several different ways. Section 222.74 specifies how the term is generally used throughout these regulations. Section 8003(f)(3)(A)(i) also provides that payments for certain heavily impacted LEAs may be calculated using the average per pupil expenditure of three generally comparable LEAs, and § 222.74 identifies how three generally comparable LEAs are selected when that option is available. This selection method was also available to LEAs under section 3(d)(2)(B) of Public Law 81–874 and was described in § 222.36 of the former Impact Aid regulations.

Special Provisions for Local Educational Agencies That Claim Children Residing on Indian Lands (Subpart G)

The regulations in subpart G implement the provisions in section 8004 of the ESEA that require an LEA that claims children residing on Indian lands to establish policies and procedures for the equal participation of those children in the LEA's programs and activities supported with Impact Aid funds, and to consult with and afford parents and Indian tribes an opportunity to present their views on those programs and activities. Regulations implementing similar provisions in section 5(b)(3) of Public Law 81–874 previously were in part 223.

Previously, the statute did not impose on the Secretary the duty to provide technical assistance to the LEAs and Indian tribes. Section 8004(d) specifically imposes that requirement on the Secretary and gives the Secretary the authority to take various enforcement actions, including withholding payments authorized under

section 8003 from LEAs that fail to comply with section 8004(a).

Facilities Assistance and Transfers under Section 8008 of the Act (Subpart I)

The regulations in subpart I implement the provisions in section 8008 of the ESEA concerning facilities maintenance. Pub. L. 81–815, the former Impact Aid School Construction statute, was repealed as part of the IASA. Under section 10 of Pub. L. 81–815, the Secretary had the authority to make arrangements for "constructing, leasing, renovating, remodeling, or rehabilitating or otherwise providing" the minimum school facilities necessary for the education of certain federally connected students for whom such facilities were unavailable.

Section 8008 specifies that the Secretary may continue to provide assistance for the school facilities that were supported under section 10 of Public Law 81–815. However, this authority indicates that the Secretary is, as soon as practicable, to transfer to an appropriate LEA or entity the United States' interest in those facilities. Due to these statutory changes, the relevant regulations, § 221.5 and subpart H, which were previously contained in 34 CFR part 221, have been clarified and streamlined, consistent with the more limited authorities in section 8008.

Impact Aid Administrative Hearings and Judicial Review under Section 8011 of the Act (Subpart J)

The regulations in subpart J implement the provisions in section 8011(a) of the ESEA for administrative review following an adverse action. Regulations implementing a similar administrative review provision in section 5(g) of Pub. L. 81–874 previously were in part 218. This subpart governs all Impact Aid administrative hearings, except Indian policies and procedures hearings (in subpart G) and hearings concerning determinations under section 8009 of the ESEA (in subpart K).

In addition, the regulations in this subpart implement section 8011(b) of the ESEA, which changes the forum in which a party must seek judicial review. Under that provision, if a party seeks review of the Secretary's final decision following an administrative hearing proceeding under section 8011(a), that review must be sought in the United States Court of Appeals in the circuit in which the LEA or State is located, rather than in a lower court such as a United States District Court or the Court of Federal Claims as previously occurred.

Determinations under Section 8009 of the Act (Subpart K)

The regulations in subpart K implement the provisions in section 8009 of the ESEA. Under this section, States are prohibited from considering Impact Aid in the allocation of State aid, except in those cases where the Secretary determines and certifies that the State has in effect a program of State aid that equalizes expenditures for free public education among the State's LEAs. Sections 222.161–222.165 describe the substantive and procedural requirements for States to obtain certification and consider Impact Aid in accordance with section 8009 of the ESEA. Regulations implementing similar provisions in section 5(d) (1) and (2) of Pub. L. 81–874 previously were in subpart G of part 222.

§ 222.161 How is State aid treated under section 8009 of the Act?

Section 8009 of the ESEA contains several changes from the previous law that are implemented by § 222.161. Section 222.161(a)(1)(iv)(4) implements the new requirements in section 8009(b)(1) of the ESEA, under which all States are prohibited from considering Impact Aid before certification by the Secretary. Section 222.161(b) implements the new requirement in section 8009(b)(2)(A) that determinations by the Secretary are to be based on final data for the second fiscal year preceding the fiscal year for which the determination is made if substantially the same program of State aid was then in effect.

This regulation also clarifies that, in those cases in which the Secretary determines that the State has substantially revised its State aid program, the Secretary may certify that program for any fiscal year only if the Secretary determines, on the basis of projected data, that the State's program will meet the disparity standard described in § 222.162. The State must also provide an assurance to the Secretary that, if final data do not demonstrate that the State's program met that standard for the fiscal year for which the determination is made, the State will pay to each affected LEA the amount by which the State reduced State aid to the LEA. The regulation requires that data projections submitted by a State must set forth the assumptions upon which the data projections are founded, be accompanied by an assurance as to their accuracy, and be adjusted by actual data for the fiscal year of determination that must be submitted to the Secretary as soon as those data are available.

§ 222.162 What disparity standard must a State meet in order to be certified and how are disparities in current expenditures or revenues per pupil measured?

Section 8009(b)(2) of the ESEA establishes a new, single, statutory standard for eligibility for the consideration of Impact Aid in a State's allocation of State aid. That standard is based upon the allowable disparities in per-pupil revenues or expenditures, under which the range of permissible disparity is 25 percent for fiscal years 1995–97 and 20 percent for fiscal years 1998 and 1999. Section 222.162 reflects these requirements and specifies the method the Secretary will employ to measure the statutory disparity standard. Detailed examples of the application of this method to State funding programs are provided in the Appendix following subpart K.

§ 222.163 What proportion of funds distributed under the Act may a State take into consideration upon certification?

Once a State is certified by the Secretary, section 8009(d) of the ESEA provides that the State may reduce State aid in a limited amount equal to a specified proportion of certain Impact Aid receipts. Specifically, the proportion established by section 8009(d) is the proportion that the local tax revenues covered under the equalization program are of the total local tax revenues attributable to current expenditures for free public education within that agency. Section 222.163 clarifies how the Secretary applies this statutory limitation.

§ 222.164 What procedures does the Secretary follow in making a determination under section 8009?

Section 222.164 specifies the procedures to be followed by the Secretary in making determinations under section 8009. Those procedures include the requirement that a submission by a State seeking certification as equalized must be received by the Secretary no later than 120 calendar days before the beginning of the State's fiscal year for the year of the determination. The submission must include final second preceding fiscal year disparity data (except as provided in § 222.161(b)(2)) enabling the Secretary to determine whether the State qualifies.

This regulation also provides that, before making a determination under section 8009, the Secretary will afford the State, and all LEAs in the State, an opportunity to present their views to the Department.

§ 222.165 What procedures does the Secretary follow after making a determination under section 8009?

Section 222.165 describes the procedures for administrative appeals of determinations by the Secretary and the procedures for corrective actions by States.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the Secretary's practice to offer interested parties the opportunity to comment on proposed regulations. However, these regulations merely reflect statutory changes, remove unnecessary and obsolete regulatory provisions, reorganize and clarify the language of the regulations, and make minor procedural revisions. Thus, the regulations do not establish or affect substantive policy. Therefore, the Secretary has determined with respect to amendments made due to statutory changes that, pursuant to 5 U.S.C. 553(b)(B), publication of a proposed rule is unnecessary and contrary to the public interest, and with respect to the procedural changes that, pursuant to 5 U.S.C. 553(b)(A), public comment is not required.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by these regulations are small LEAs receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations will not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

List of Subjects in Part 222

Education, Education of children with disabilities, Elementary and secondary education, Federally affected areas, Grant programs—education, Indians—education, Public housing, Reports and recordkeeping requirements, School construction.

34 CFR Part 218

Education, Elementary and secondary education, Federally affected areas, Grant programs—education.

34 CFR Part 219

Education, Elementary and secondary education, Federally affected areas, Grant programs—education, Reports and recordkeeping requirements, School construction.

34 CFR Parts 221 and 222

Education, Elementary and secondary education, Federally affected areas, Grant programs—education, Reports and recordkeeping requirements, School construction.

34 CFR Part 223

Education, Elementary and secondary education, Federally affected areas, Grant programs—education, Indians—education.

Dated: September 25, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

(Catalog of Federal Domestic Assistance Number 84.041, Impact Aid—Maintenance and Operations)

For the reasons set out in the preamble and under the authority at 20 U.S.C. 7701–7714, the Secretary amends chapter II of title 34 of the Code of Federal Regulations as follows:

Part 218 [Removed]

1.Part 218 is removed.

Part 219 [Removed]

2. Part 219 is removed.

Part 221 [Removed]

3. Part 221 is removed.

Part 223 [Removed]

4. Part 223 is removed.

5. Part 222 is revised to read as follows:

PART 222—IMPACT AID PROGRAMS

Subpart A—General

Sec.

222.1 What is the scope of this part?
222.2 What definitions apply to this part?
222.3 How does a local educational agency apply for assistance under section 8002 or 8003 of the Act?
222.4 How does the Secretary determine when an application is timely filed?
222.5 When may a local educational agency amend its application?
222.6 Which applications does the Secretary accept?
222.7 What information may a local educational agency submit after the application deadline?
222.8 What action must an applicant take upon a change in its boundary, classification, control, governing authority, or identity?
222.9 What records must a local educational agency maintain?
222.10 How long must a local educational agency retain records?
222.11 How does the Secretary recover overpayments?
222.12 [Reserved]
222.13 What other statutes and regulations apply to this part?
222.14–222.19 [Reserved]

Subpart B—Payments for Federal Property under Section 8002 of the Act

222.20 What definitions apply to this subpart?
222.21 What requirements must a local educational agency meet concerning Federal acquisition of real property within the local educational agency?
222.22 How does the Secretary treat compensation from Federal activities for purposes of determining eligibility and payments?
222.23–222.29 [Reserved]

Subpart C—Payments for Federally Connected Children under Section 8003(b) and (e) of the Act

222.30 What is "free public education"?
222.31 To which local educational agencies does the Secretary make basic support payments under section 8003(b) of the Act?
222.32 Upon what information is a local educational agency's basic support payment based?
222.33 When must an applicant make its first or only membership count?
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Authority: 20 U.S.C. 7701–7714, unless otherwise noted.

Subpart A—General

§ 222.1 What is the scope of this part?

The regulations in this part govern the provision of financial assistance under title VIII of the Elementary and Secondary Education Act of 1965 (ESEA) to local educational agencies (LEAs) in areas affected by Federal activities.

(Authority: 20 U.S.C. 7701–7714)

§ 222.2 What definitions apply to this part?

(a)(1) The following terms defined in section 8013 of the Act apply to this part:

Armed forces
Average per-pupil expenditure
Construction
Current expenditures
Indian lands
Local contribution percentage
Low-rent housing
School facilities

(2) The following term defined in § 222.30 applies to this part:

Free public education

(b) The following terms defined in section 14101 of the ESEA (General Provisions) also apply to this part:

Average daily attendance (ADA)
Child
County
Department
Outlying area
Parent

Secretary
State
State educational agency (SEA)

(c) In addition, the following definitions apply to this part:

Act means title VIII of the Elementary and Secondary Education Act of 1965 (ESEA), as amended.

Applicant means any LEA that files an application for financial assistance under section 8002, 8003, or 8006 of the Act and the regulations in this part implementing those provisions. Except as provided in section 8005(d)(4) of the Act, an SEA may be an applicant for assistance under section 8003 only if the SEA directly operates and maintains facilities for providing free public education for the children it claims in its application.

(Authority: 20 U.S.C. 7705 and 7713(9))

Application means a complete and signed application in the form approved by the Secretary, filed by an applicant.

(Authority: 20 U.S.C. 7705)

Federally connected children means children described in sections 8003(a)(1) and 8010(c)(2) of the Act.

(Authority: 20 U.S.C. 7703(a)(1) and 7710(c)(2))

Federal property.

(1) The term means—

(i) Federal property described in section 8013; and

(ii) Ships that are owned by the United States and whose home ports are located upon Federal property described in this definition.

(2) Notwithstanding paragraph (1) of this definition, for the purpose of section 8002 the term does not include—

(i) Any real property that the United States does not own in fee simple, except for Indian lands described in section 8013(7), and transferred property described in section 8002(d); and

(ii) Real property described in section 8002(c) (real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933).

(Authority: 20 U.S.C. 7702(c) and (d), and 7713(5) and (7))

Fiscally dependent LEA means an LEA that does not have the final authority to determine the amount of revenue to be raised from local sources for current expenditure purposes.

(Authority: 20 U.S.C. 7702(b)(2) and 7703(f))

Fiscally independent LEA means an LEA that has the final authority to determine the amount of revenue to be raised from local sources for current expenditure purposes within the limits established by State law.

(Authority: 20 U.S.C. 7702(b)(2) and 7703(f))

Local educational agency (LEA) is defined in section 8013(9). Except for an SEA qualifying under section 8005(d)(4), the term includes an SEA only so long as—

(1) The SEA directly operates and maintains the facilities for providing free public education for the children it claims in its application;

(2) The children claimed by the SEA actually are attending those State-operated facilities; and

(3) The SEA does not, through a tuition arrangement, contract, or by any other means, pay another entity to operate and maintain facilities for those children.

(Authority: 20 U.S.C. 7705(d)(4) and 7713(9))

Local real property tax rate for current expenditure purposes.

(1) For a fiscally independent LEA, the term means the entire tax levied on real property within the LEA, if all but a *de minimus* amount of the total proceeds from the tax levy are available to that LEA for current expenditures (as defined in section 8013).

(2) For a fiscally dependent LEA, the term means the following:

(i) The entire tax levied by the general government on real property if all but a *de minimus* amount of the total proceeds from that tax levy are available to the LEA for current expenditures (as defined in section 8013);

(ii) That portion of a local real property tax rate designated by the general government for current expenditure purposes (as defined in section 8013); or

(iii) If no real property tax levied by the general government meets the criteria in paragraphs (2)(i) or (ii) of this definition, an imputed tax rate that the Secretary determines by—

(A) Dividing the total local real property tax revenue available for current expenditures of the general government by the total revenue from all local sources available for current expenditures of the general government;

(B) Multiplying the figure obtained in paragraph (2)(iii)(A) of this definition by the revenue received by the LEA for current expenditures (as defined in section 8013) from the general government; and

(C) Dividing the figure obtained in paragraph (2)(iii)(B) of this definition by the total current actual assessed value of all real property in the district.

(3) The term does not include any portion of a tax or revenue that is restricted to or dedicated for any specific purpose other than current expenditures (as defined in section 8013).

(Authority: 20 U.S.C. 7702(b)(2) and 7703(f))

Membership means the following:

(1)(i) The definition given to the term by State law; or

(ii) If State law does not define the term, the number of children listed on an LEA's current enrollment records on its survey date(s).

(2) The term includes children for whom the applicant is responsible for providing a free public education, but who are attending schools other than those operated by the applicant under a tuition arrangement described in paragraph (4) of the definition of "free public education" in § 222.30.

(3) The term does not include children who—

(i) Have never attended classes in schools of the LEA or of another educational entity with which the LEA has a tuition arrangement;

(ii) Have permanently left the LEA;

(iii) Otherwise have become ineligible to attend classes there; or

(iv) Attend the schools of the applicant LEA under a tuition arrangement with another LEA that is responsible for providing them a free public education.

(Authority: 20 U.S.C. 7703 and 8801(1))

Parent employed on Federal property.

(1) The term means the following:

(i) An employee of the Federal Government who reports to work on, or whose place of work is located on, Federal property.

(ii) A person not employed by the Federal Government but who spends more than 50 percent of his or her working time on Federal property (whether as an employee or self-employed) when engaged in farming, grazing, lumbering, mining, or other operations that are authorized by the Federal Government, through a lease or other arrangement, to be carried out entirely or partly on Federal property.

(iii) A proportion, to be determined by the Secretary, based on persons working on commingled Federal and non-Federal properties other than those persons covered under paragraph (1)(ii) of this definition.

(2) The term does not include a person who reports to work at a work station not on Federal property but spends more than 50 percent of his working time on Federal property providing services to operations or activities authorized to be carried out on Federal property.

(Authority: 20 U.S.C. 7701 and 7703)

Real property.

(1) The term means—

(i) Land; and

(ii) Improvements (such as buildings and appurtenances to those buildings, railroad lines, utility lines, pipelines, and other permanent fixtures), except as provided in paragraph (2).

(2) The term does not include—

(i) Improvements that are classified as personal property under State law; or

(ii) Equipment and movable machinery, such as motor vehicles, movable house trailers, farm machinery, rolling railroad stock, and floating dry

docks, unless that equipment or movable machinery is classified as real property or subject to local real property taxation under State law.

(Authority: 20 U.S.C. 7702 and 7713(5))

Revenues derived from local sources.

(1) The term means—

(i) Tax funds derived from real estate; and

(ii) Other taxes or receipts that are received from the county, and any other local tax or miscellaneous receipts.

(2)(i) For the purpose of paragraph (1)(i) of this definition, the term "tax funds derived from real estate" means—

(A) Locally received funds that are derived from local taxation of real property;

(B) Tax funds that are received on account of Wherry-Spence housing projects (12 U.S.C. 1702 *et seq.*) located on private property; and

(C) All local real property tax funds that are received from either the county or the State, serving as a collecting agency, and that are returned to the LEA for expenditure by that agency.

(ii) The term does not include—

(A) Any payments under this Act or the Johnson-O'Malley Act (25 U.S.C. 452);

(B) Tax payments that are received on account of Wherry-Spence housing projects located on federally owned property; or

(C) Local real property tax funds that are received by the State and distributed to LEAs on a per-pupil or formula basis.

(Authority: 20 U.S.C. 7713(11))

State aid means any contribution, no repayment of which is expected, made by a State to or on behalf of an LEA within the State for the support of free public education.

(Authority: 20 U.S.C. 7703)

Uniformed services means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

(Approved by the Office of Management and Budget under control number 1810–0036).

(Authority: 20 U.S.C. 7703(a)(1); 37 U.S.C. 101)

§ 222.3 How does a local educational agency apply for assistance under section 8002 or 8003 of the Act?

An LEA must meet the following application requirements to be considered for a payment under section 8002 or 8003:

(a) Except as provided in paragraphs (b) and (d) of this section, on or before January 31 of the fiscal year for which the LEA seeks assistance under section 8002, or the fiscal year preceding the fiscal year for which the LEA seeks assistance under section 8003, the LEA must—

(1) File with the Secretary a complete and signed application for payment under section 8002 or 8003; and

(2) Certify to the Secretary that it will file, and file, a copy of the application referred to in paragraph (a) of this section with its SEA.

(b)(1) If any of the following events that give rise to eligibility for payment occur after the filing deadline in paragraph (a)(1) of this section, an LEA must file a complete and signed application within the time limits required by paragraph (b)(2) of this section:

(i) The United States Government initiates or reactivates a Federal activity, or acquires real property.

(ii) The United States Congress enacts new legislation.

(iii) A reorganization of school districts takes place.

(iv) Property, previously determined by the Secretary not to be Federal property, is determined in writing by the Secretary to be Federal property.

(2) Except as provided in paragraph (d) of this section, within 60 days after the applicable event occurs but not later than September 30 of the fiscal year for which the LEA seeks assistance under section 8002, or of the fiscal year preceding the fiscal year for which the LEA seeks assistance under section 8003, the LEA must—

(i) File an application, as permitted by paragraph (b)(1) of this section, with the Secretary; and

(ii) File a copy of that application with its SEA.

(c)(1) If the SEA wishes to notify the Secretary of any inconsistencies or other concerns with an LEA's application, the SEA must do so—

(i) For an application subject to the filing deadlines in paragraph (a)(1) of this section, on or before February 15 of the fiscal year for which the LEA seeks assistance under section 8002, or of the fiscal year preceding the fiscal year for which the LEA seeks assistance under section 8003; and

(ii) On or before fifteen days following the date by which an application subject to the filing deadlines in paragraph (b) of this section must be filed.

(2) The Secretary does not process for payment a timely filed application until any concerns timely raised by the SEA are resolved. If the Secretary does not receive comments or notification from the SEA by the applicable deadline set forth in paragraph (c)(1) of this section, the Secretary assumes that the data and statements in the application are, to the best of the SEA's knowledge, true, complete, and correct.

(d) If a filing date in this section falls on a Saturday, Sunday, or Federal holiday, the deadline for filing is the next succeeding business day.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7705)

§ 222.4 How does the Secretary determine when an application is timely filed?

To be timely filed under § 222.3, an application must—

(a) Be received by the Secretary on or before the applicable filing date; or

(b) Bear a U.S. Postal Service postmark dated on or before that filing date.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7705)

Note to Paragraph (b) of this section: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

§ 222.5 When may a local educational agency amend its application?

(a) An LEA may amend its application following any of the events described in § 222.3(b)(1) by submitting a written request to the Secretary and a copy to its SEA no later than the earlier of the following events:

(1) The 60th day following the applicable event.

(2) By the end of the Federal fiscal year—

(i) For which assistance is sought under section 8002; or

(ii) Preceding the fiscal year for which the LEA seeks assistance under section 8003.

(b) The LEA also may amend its application no later than the end of the Federal fiscal year for which assistance is sought under section 8002 or of the fiscal year preceding the fiscal year for which the LEA seeks assistance under section 8003—

(1) For an adjustment to its payment based on data obtained from a second membership count; or

(2) For an adjustment to its payment based on actual satisfactory data regarding eligible Federal properties or federally connected children if those data were not available at the time the LEA filed its application.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7705)

§ 222.6 Which applications does the Secretary accept?

(a) The Secretary accepts or approves for payment any otherwise approvable application under section 8002 or 8003 that is timely filed with the Secretary in accordance with §§ 222.3, 222.4, and 222.5, as applicable.

(b)(1) Except as provided in paragraph (b)(2) of this section, the Secretary does not accept or approve for payment any application under section 8002 or 8003 that is not timely filed with the Secretary.

(2) The Secretary accepts and approves for payment any otherwise approvable application filed within 60

days of the applicable filing date established in § 222.3, but reduces the payment based on the application by 10 percent of the amount that would have been paid if the application had been filed by the applicable filing date established in that section.

(Authority: 20 U.S.C. 7705)

§ 222.7 What information may a local educational agency submit after the application deadline?

(a) *General.* Except as indicated in paragraph (b) of this section, the Secretary does not consider information submitted by an applicant after the deadlines prescribed in this subpart for submission of applications and amendments to applications.

(b) *Information solicited by the Secretary.* The Secretary may solicit from an applicant at any time additional information to process an application.

(Authority: 20 U.S.C. 1221e-3, 7702, 7703, 7705, 7706)

§ 222.8 What action must an applicant take upon a change in its boundary, classification, control, governing authority, or identity?

(a) Any applicant that is a party to an annexation, consolidation, deconsolidation, merger, or other similar action affecting its boundaries, classification, control, governing authority, or identity must provide the following information to the Secretary as soon as practicable:

(1) A description of the character and extent of the change.

(2) The effective date of the change.

(3) Full identification of all predecessor and successor LEAs.

(4) Full information regarding the disposition of the assets and liabilities of all predecessor LEAs.

(5) Identification of the governing body of all successor LEAs.

(6) The name and address of each authorized representative officially designated by the governing body of each successor LEA for purposes of the Act.

(b) If a payment is made under section 8002 or 8003 to an LEA that has ceased to be a legally constituted entity during the regular school term due to an action described in paragraph (a) of this section, the LEA may retain that payment if—

(1) An adjustment is made in the payment of a successor LEA to account for the payment to the predecessor LEA; or

(2)(i) The payment amount does not exceed the amount the predecessor LEA would have been eligible to receive if the change in boundaries or organization had not taken place; and

(ii) A successor LEA is not an eligible applicant.

(c) A predecessor LEA receiving any portion of a payment under section 8002 or 8003 that exceeds the amount allowed by paragraph (b)(2)(i) of this section must return the excessive portion to the Secretary, unless the Secretary determines otherwise under section 8012 of the Act.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7702 and 7703)

§ 222.9 What records must a local educational agency maintain?

Except as otherwise provided in § 222.10—

(a) An LEA must maintain adequate written records to support the amount of payment it received under the Act for any fiscal year;

(b) On request, the LEA must make its records available to the Secretary for the purpose of examination or audit; and

(c) Each applicant must submit such reports and information as the Secretary may require to determine the amount that the applicant may be paid under the Act.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 1221e-3, 1232f, 7702, 7703, 7704, 7706)

§ 222.10 How long must a local educational agency retain records?

An LEA must retain the records described in § 222.9 until the later of—

(a) Three years after the last payment for a fiscal year; or

(b) If the records have been questioned on Federal audit or review, until the question is finally resolved and any necessary adjustments to payments have been made.

(Authority: 20 U.S.C. 1221e-3, 1232f, 7702, 7703, 7704, 7706)

§ 222.11 How does the Secretary recover overpayments?

Except as otherwise provided in section 8012, the Secretary adjusts for and recovers overpayments as follows:

(a) If the Secretary determines that an LEA has received a payment in excess of what it should have received under the Act and this part, the Secretary deducts the amount of the overpayment from subsequent payments for which the LEA is eligible under the Act.

(b)(1) If the LEA is not eligible for subsequent payments under the Act, the LEA must promptly refund the amount of the overpayment to the Secretary.

(2) If the LEA does not promptly repay the amount of the overpayment or promptly enter into a repayment agreement with the Secretary, the Secretary may use the procedures in 34 CFR part 30 to offset that amount against payments from other Department programs or, under the circumstances permitted in part 30, to request that another agency offset the debt.

(Authority: 20 U.S.C. 1221e–3, 1226a–1, 7702, 7703, 7706, 7712)

§ 222.12 [Reserved]

§ 222.13 What other statutes and regulations apply to this part?

(a) The following Federal statutes and regulations on nondiscrimination apply to assistance under this part:

(1) The provisions of title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) (prohibition of discrimination on the basis of race, color or national origin), and the implementing regulations (34 CFR part 100).

(Authority: 42 U.S.C. 2000d–2000d–4)

(2) The provisions of title IX of the Education Amendments of 1972 (Pub. L. 92–318) (prohibition of discrimination on the basis of sex), and the implementing regulations (34 CFR part 106).

(Authority: 20 U.S.C. 1681–1683)

(3) The provisions of section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112) (prohibition of discrimination on the basis of disability), and the implementing regulations (34 CFR part 104).

(Authority: 29 U.S.C. 794)

(4) The provisions of title II of the Americans with Disabilities Act of 1990 (Pub. L. 101–336) (prohibition of discrimination on basis of disability), and any implementing regulations.

(Authority: 42 U.S.C. 12101–12213)

(5) The provisions of the Age Discrimination Act of 1975 (Pub. L. 94–135) (prohibition of age discrimination), and any implementing regulations.

(Authority: 42 U.S.C. 6101)

(b) The following Education Department General Administrative Regulations (EDGAR):

(1) Subparts A, E, F, and §§ 75.900 and 75.910 of 34 CFR part 75 (Direct Grant Programs) for payments under sections 8003(d) (payments for federally connected children with disabilities), 8007 (construction), and 8008 (school facilities), except for the following:

(i) Section 75.603 does not apply to payments under section 8007 (construction) or section 8008 (school facilities).

(ii) Section 75.605 does not apply to payments under section 8007 (construction).

(iii) Sections 75.600–602, 75.604, and 75.606–617 apply to payments under section 8007 (construction) only to the extent that funds received under that section are used for major renovations or to construct new school facilities.

(2) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), for payments under sections 8003(d) (payments for federally connected children with

disabilities), 8007 (construction), and 8008 (school facilities).

(4) 34 CFR part 82 (New Restrictions on Lobbying).

(5) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-free Workplace (Grants)).

(Authority: 20 U.S.C. 1221e–3)

§§ 222.14–222.19 [Reserved]

Subpart B—Payments for Federal Property under Section 8002 of the Act

§ 222.20 What definitions apply to this subpart?

In addition to the terms referenced or defined in § 222.2, the following definitions apply to this subpart:

Acquisition or *acquired by the United States.*

(1) The term means—

(i) The receipt or taking by the United States of ownership in fee simple of real property by condemnation, exchange, gift, purchase, transfer, or other arrangement;

(ii) The receipt by the United States of real property as trustee for the benefit of individual Indians or Indian tribes; or

(iii) The imposition by the United States of restrictions on sale, transfer, or exchange of real property held by individual Indians or Indian tribes.

(2) The definition of "acquisition" in 34 CFR 77.1(c) (Definitions that Apply to Department Regulations) of this title does not apply to this subpart.

(Authority: 20 U.S.C. 7702)

Assessed value. For the purpose of determining eligibility under section 8002(a)(1) and § 222.21, the following definition applies:

(1) The term means the value that is assigned to real property, for the purpose of generating local real property tax revenues for current expenditures (as defined in section 8013 of the Act), by a State or local official who is legally authorized to determine that assessed value.

(2) The term does not include—

(i) A value assigned to tax-exempt real property;

(ii) A value assigned to real property for the purpose of generating other types of revenues, such as payments in lieu of taxes (PILOTs);

(iii) Fair market value, or a percentage of fair market value, of real property unless that value was actually used to generate local real property tax revenues for current expenditures (as defined in section 8013); or

(iv) A value assigned to real property in a condemnation or other court proceeding, or a percentage of that value, unless that value was actually used to generate local real property tax revenues for current expenditures (as defined in section 8013).

(Authority: 20 U.S.C. 7702(a)(1))

Eligible Federal property.

(1) The term means "Federal property" as defined in § 222.2(c) for section 8002, which meets the following additional requirements:

(i) The United States has acquired the Federal property since 1938; and

(ii) The Federal property was not acquired by exchange for other Federal property that the United States owned within the school district before 1939.

(2) In addition, for local educational agencies (LEAs) that are eligible under § 222.21(a)(2), the term also means land acquired by the United States Forest Service between 1915 and 1990.

(Authority: 20 U.S.C. 7702)

§ 222.21 What requirements must a local educational agency meet concerning Federal acquisition of real property within the local educational agency?

(a) For an LEA with an otherwise approvable application to be eligible to receive financial assistance under section 8002, the LEA must meet the requirements in subpart A of these regulations and § 222.22, and, unless otherwise provided by statute as meeting the requirements in section 8002(a)(1)(C), document—

(1) That the United States owns or has acquired "eligible Federal property" within the LEA, that has an aggregate assessed value of 10 percent or more of the assessed value of—

(i) All real property in that LEA, based upon the assessed values of the eligible Federal property and of all real property (including that Federal property) on the date or dates of acquisition of the eligible Federal property; or

(ii) All real property in the LEA as assessed in the first year preceding or succeeding acquisition, whichever is greater, only if—

(A) The assessment of all real property in the LEA is not made at the same time or times that the Federal property was so acquired and assessed; and

(B) State law requires an assessment be made of property so acquired; or

(2)(i) That, as demonstrated by written evidence from the United States Forest Service satisfactory to the Secretary, the LEA contains between 20,000 and 60,000 acres of land that has been acquired by the United States Forest Service between 1915 and 1990; and

(ii) That the LEA serves a county chartered by State law in 1875 or 1890.

(b) "Federal property" described in section 8002(d) (certain transferred property) is considered to be owned by the United States for the purpose of paragraph (a) of this section.

(c) If, during any fiscal year, the United States sells, transfers, is otherwise divested of ownership of, or relinquishes an interest in or restriction on, eligible Federal property, the Secretary redetermines the LEA's eligibility for the following fiscal year, based upon the remaining eligible Federal property, in accordance with paragraph (a) of this section. This paragraph does not apply to a transfer of real property by the United States described in section 8002(d).

(d) Except as provided under paragraph (a)(2) of this section, the Secretary's determinations and redeterminations of eligibility under this section are based on the following documents:

(1) For a new section 8002 applicant or newly acquired eligible Federal property, only upon—

(i) Original records as of the time(s) of Federal acquisition of real property, prepared by a legally authorized official, documenting the assessed value of that real property; or

(ii) Facsimiles of those records such as microfilm or other reproduced copies.

(2) For a redetermination of an LEA's eligibility under section 8002(a)(1), only upon—

(i) Records described in paragraph (d)(1) of this section; or

(ii) Department records.

(e) The Secretary does not base the determination or redetermination of an LEA's eligibility under this section upon secondary documentation such as estimates, certifications, or appraisals.

(Authority: 20 U.S.C. 7702(a)(1))

§ 222.22 How does the Secretary treat compensation from Federal activities for purposes of determining eligibility and payments?

(a) An LEA with an otherwise approvable application is eligible to receive assistance under section 8002 for a fiscal year only if the LEA meets the requirements in subpart A of these regulations and § 222.21, and is not substantially compensated, for the loss in revenue resulting from Federal ownership of real property by increases in revenue accruing to the LEA during the previous fiscal year from Federal activities with respect to the eligible Federal property in the LEA.

(b) The Secretary considers that an LEA is substantially compensated by increases in revenue from Federal activities with respect to the eligible Federal property if—

(1) The LEA received new or increased revenue during the preceding fiscal year that is generated directly from the eligible Federal property or activities in or on that property; and

(2) The revenue described in paragraph (b)(1) of this section equals or exceeds the maximum payment amount under section 8002(b) for the fiscal year for which the LEA seeks assistance.

(c) If an LEA described in paragraph (a) of this section received revenue described in paragraph (b)(1) of this

section during the preceding fiscal year that is less than the maximum payment amount under section 8002(b) for the fiscal year for which the LEA seeks assistance, the Secretary reduces the LEA's section 8002 payment by an amount equal to that amount of revenue.

(d) For purposes of this section, the amount of revenue that an LEA receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

(1) The operation of a domestic dependent elementary or secondary school; or

(2) The provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

(Authority: 20 U.S.C. 7702(a)(2) and (b)(1)(A))

§§ 222.23–222.29 [Reserved]

Subpart C—Payments for Federally Connected Children under Section 8003(b) and (e) of the Act

§ 222.30 What is "free public education"?

In addition to the terms defined in § 222.2, the following definition applies to this part:

Free public education. (1) The term means education that is provided—

(i) At public expense;

(ii)(A) As the complete elementary or secondary educational program as determined under State law through grade 12; and

(B) Preschool education, whether or not included as elementary education by State law;

(iii) In a school of the local educational agency (LEA) or under a tuition arrangement with another LEA or other educational entity; and

(iv) Under public supervision and direction, except with respect to children with disabilities.

(2) For the purpose of paragraph (1)(i) of this definition, education is provided at public expense if—

(i) There is no tuition charge to the child or the child's parents; and

(ii) Federal funds, other than funds under the Act, do not provide a substantial portion of the educational program.

(3) For the purpose of paragraph (1)(ii) of this definition, the complete elementary or secondary educational program is the program recognized by the State as meeting all requirements for elementary or secondary education for the children claimed and, except for preschool education, does not include a program that provides only—

(i) Supplementary services or instruction; or

(ii) A portion of the required educational program.

(4) For the purpose of paragraph (1)(iii) of this definition, a tuition arrangement must—

(i) Satisfy all applicable legal requirements in the State; and

(ii) Genuinely reflect the applicant LEA's responsibility to provide a free public education to the children claimed under section 8003.

(5) For the purpose of paragraph (1)(iv) of this definition, education provided under public supervision and direction means education that is provided—

(i) In a school of the applicant LEA or another LEA; or

(ii) By another educational entity, over which the applicant LEA, or other public agency, exercises authority with respect to the significant aspects of the educational program for the children claimed. The Secretary considers significant aspects of the educational program to include administrative decisions relating to teachers, instruction, and curriculum.

(Authority: 20 U.S.C. 7703, 7709, 7713(6))

§ 222.31 To which local educational agencies does the Secretary make basic support payments under section 8003(b) of the Act?

The Secretary makes payments to an LEA with an otherwise approvable application for children claimed under section 8003(b) of the Act if—

(a) The LEA meets the requirements in subpart A of these regulations and this subpart; and

(b)(1) The LEA is responsible under applicable State or Federal law for providing a free public education to those children;

(2) The LEA is providing a free public education to those children; and

(3) The State provides funds for the education of those children on the same basis as all other public school children in the State, unless permitted otherwise under section 8009 of the Act.

(Authority: 20 U.S.C. 7703 and 7709)

§ 222.32 Upon what information is a local educational agency's basic support payment based?

(a) The Secretary determines an LEA's payment under section 8003(b) on the basis of information in the LEA's application, including information regarding the membership of federally connected children.

(b) The LEA must supply information in its application regarding its federally connected membership on the basis of any count described in §§ 222.33 through 222.35.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7703 and 7705)

§ 222.33 When must an applicant make its first or only membership count?

(a)(1) An applicant must select a day in the current school year as the survey date for making the first membership count, which must be no earlier than the fourth day of the regular school year and on or before January 31.

(2) The applicant must use the same survey date for all schools in the LEA.

(b) As of the survey date, the applicant must—

(1) Count the membership of its federally connected children; and

(2) Count the total membership of its children—both federally connected and non-federally connected.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7703, 7705, 7706)

§ 222.34 If an applicant makes a second membership count, when must that count be made?

(a)(1) The applicant may, but is not required to, make a second count of membership.

(2) If the applicant chooses to make a second count of membership, the applicant must select a day after January 31, but no later than May 14, as the survey date for making the second membership count, and make that count in accordance with § 222.33(b).

(3) The applicant must use the same survey date for the second membership count for all schools in the LEA.

(b) The applicant may use the information obtained from a second membership count to amend its application for assistance as described in § 222.5(b)(1).

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7703 and 7705)

§ 222.35 How does a local educational agency count the membership of its federally connected children?

An applicant counts the membership of its federally connected children by using one or both of the following methods:

(a) *Parent-pupil survey.* An applicant may conduct a parent-pupil survey to count the membership of its federally connected children, which must be counted as of the survey date.

(1) The applicant shall conduct a parent-pupil survey by providing a form to a parent of each pupil enrolled in the LEA to substantiate the pupil's place of residence and the parent's place of employment. A parent-pupil survey form must include the following:

(i) Pupil enrollment information (this information may also be obtained from school records), including—

(A) Name of pupil;

(B) Date of birth of the pupil; and

(C) Name of public school and grade of the pupil.

(ii) Pupil residence and parent employment information, including—

(A) Address of the pupil's residence (or other location information for that residence, such as legal description),

including the name of the Federal facility if the pupil's residence is on Federal property; and

(B) Name (as it appears on the employer's payroll record) of the parent (mother, father, legal guardian or other person standing in *loco parentis*) who is employed on Federal property and with whom the pupil resides (unless the parent is a member of the uniformed services on active duty);

(C) Name and address of the Federal property on which the parent is employed (or other location information, such as legal description), unless the parent is a member of the uniformed services on active duty;

(D) If the parent is a member of the uniformed services on active duty, the name, rank, and branch of service of that parent;

(E) If the parent is a civilian employed on a Federal vessel, the name of the vessel, hull number, and name of the controlling agency;

(F) The signature of the parent supplying the information and the date of such signature; and

(G) The name of the parent's employer and the employer's address (or other location information, such as legal description), unless a parent is a member of the uniformed services on active duty.

(2) An LEA may accept a parent-pupil survey form, or a parent-pupil survey form that is signed by a person other than a parent, only under unusual circumstances. In those instances, the parent-pupil survey form must show why the parent did not sign the survey form, and when, how, and from whom the residence and employment information was obtained.

(b) *Source Check.* (1) An applicant may count the membership of its federally connected children by using a source check to substantiate a pupil's place of residence or parent's place of employment on the survey date.

(2) A source check is a form provided—

(i) To a parent's employer, on which the employer certifies as to the place of employment of a parent of a pupil claimed;

(ii) To a housing official, on which the official certifies as to the residence of each pupil claimed; or

(iii) To a tribal official, on which the official certifies as to the residence of each pupil claimed residing on Indian lands over which that tribal official has jurisdiction.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7703 and 7706)

§ 222.36 What minimum number of federally connected children must a local educational agency have to receive a payment on behalf of those children under section 8003(b) and (e)?

(a) Except as provided in paragraph (d) of this section, an LEA is eligible to receive a payment under section 8003(b) (basic support and learning opportunity threshold) and (e) (hold harmless) for a fiscal year only if the total number of its eligible federally connected children for whom it provided a free public education for the preceding fiscal year was—

(1) At least 400 who were in average daily attendance (ADA); or

(2) At least 3 percent of the total number of children in ADA.

(b) Except as provided in paragraph (d) of this section, an applicant LEA is eligible to receive a payment under section 8003 for a fiscal year on behalf of federally connected children described in section 8003(a)(1)(F) or (G) only if the total number of those children for whom it provided a free public education for the preceding fiscal year was at least—

(1) 2,000 in ADA; and

(2) 15 percent of the total number of the children in ADA.

(c) Children described in paragraph (b) of this section are counted for the purposes of paragraph (a) of this section only if the applicant LEA is eligible to receive a payment on behalf of those children under section 8003.

(d) This section does not apply to hold harmless payments under section 8003(e) for fiscal year 1995.

(Authority: 20 U.S.C. 7703(a)(3) and (b)(1)(B))

§ 222.37 How does the Secretary calculate the average daily attendance of federally connected children?

(a) This section describes how the Secretary computes the ADA of federally connected children for each category in section 8003 to determine an applicant's payment.

(b) If an LEA is in a State that collects actual ADA data for purposes of distributing State aid for education, the Secretary calculates the ADA of that LEA's federally connected children for the current fiscal year payment as follows:

(1) Except as provided in paragraph (b)(3) of this section—

(i) By dividing the ADA of all the LEA's children for the second preceding fiscal year by the LEA's total membership on its survey date for the second preceding fiscal year (or, in the case of an LEA that conducted two membership counts in the second preceding fiscal year, by the average of the LEA's total membership on the two survey dates); and

(ii) By multiplying the figure determined in paragraph (b)(1)(i) of this section by the LEA's total membership of federally connected children in each subcategory described in section 8003 and claimed in the LEA's application for the current fiscal year payment (or, in the case of an LEA that conducts two membership counts, by the average of the LEA's total membership of federally connected children in each subcategory on the two survey dates).

(2)(i) For purposes of this section, actual ADA means raw ADA data that have not been weighted or adjusted to reflect higher costs for specific types of students for purposes of distributing State aid for education.

(ii) If an LEA provides a program of free public summer school, attendance data for the summer session are included in the LEA's ADA figure in accordance with State law or practice.

(iii) An LEA's ADA count includes attendance data for children for whom it makes tuition arrangements with other educational entities.

(3) Attendance data are not counted for any child—

(i) Who is not physically present at school for the daily minimum time period required by the State, unless the child is—

(A) Participating via telecommunication or correspondence course programs that meet State standards; or

(B) Being served by a State-approved homebound instruction program for the daily minimum time period appropriate for the child; or

(ii) Attending the applicant's schools under a tuition arrangement with another LEA.

(c) If an LEA is in a State that does not collect ADA data for purposes of distributing State aid for education, the LEA or SEA shall submit data necessary for the Secretary to calculate the ADA of the LEA's federally connected children as follows:

(1) If an LEA is in a State that formerly collected ADA data for purposes of distributing State aid for education, the SEA may submit the total ADA and total membership data for the State for each of the last three fiscal years that ADA data were collected. The Secretary uses these data to calculate the ADA of the LEA's federally connected children by—

(i) Dividing the total ADA data by the total membership data for each of the three fiscal years and averaging the results; and

(ii) Multiplying the average determined in paragraph (c)(1)(i) of this section by the LEA's total membership of federally connected children as described in paragraph (b)(1)(ii) of this section.

(2) An LEA may submit attendance data based on sampling conducted during the previous fiscal year. The sampling must include attendance data for all children for at least 30 school days. The data must be collected during

at least three periods evenly distributed throughout the school year. Each collection period must consist of at least five consecutive school days. The Secretary uses these data to calculate the ADA of the LEA's federally connected children by—

(i) Determining the ADA of all children in the sample;

(ii) Dividing the figure obtained in paragraph (c)(2)(i) of this section by the LEA's total membership for the previous fiscal year; and

(iii) Multiplying the figure determined in paragraph (c)(2)(ii) of this section by the LEA's total membership of federally connected children for the current fiscal year, as described in paragraph (b)(1)(ii) of this section.

(3) If an LEA is in a State that distributes State aid for education based on data similar to attendance data, the SEA may request that the Secretary use those data to calculate the ADA of the LEA's federally connected children. If the Secretary determines that those data are, in effect, equivalent to attendance data, the Secretary allows use of the requested data and determines the method by which the ADA of the LEA's federally connected children will be calculated.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7703, 7706, 7713)

§ 222.38 What is the maximum basic support payment that a local educational agency may receive under section 8003(b)?

The maximum basic support payment that an LEA may receive under section 8003(b) for any fiscal year is the sum of its total weighted student units under section 8003(a)(2) for the federally connected children eligible to be counted as the basis for payment, multiplied by the greater of one of the following:

(a) One-half of the State average per pupil expenditure for the third fiscal year preceding the fiscal year for which the LEA seeks assistance.

(b) One-half of the national average per pupil expenditure for the third fiscal year preceding the fiscal year for which the LEA seeks assistance.

(c) The comparable local contribution rate (LCR) determined in accordance with §§ 222.39–222.41.

(d) The State average per pupil expenditure multiplied by the local contribution percentage as defined in section 8013(8) of the Act.

(Authority: 20 U.S.C. 7703 (a), (b) and (c))

§ 222.39 How does a State educational agency identify generally comparable local educational agencies for local contribution rate purposes?

(a) To identify generally comparable LEAs within its State for LCR purposes, the State educational agency (SEA) for that State shall use data from the third fiscal year preceding the fiscal year for which the LCR is being computed to group all of its LEAs, including all applicant LEAs, as follows:

(1) *Grouping by grade dpan/legal classification alone.* Divide all LEAs into groups that serve the same grade span and then subdivide the grade span groups by legal classification, if the Secretary considers this classification relevant and sufficiently different from grade span within the State. As an alternative grade-span division, after consultation with the applicant LEAs in the State, divide all LEAs into elementary, secondary, or unified grade-span groups, as appropriate, within the State.

(2) *Grouping by Grade Span/Legal Classification and Size.* (i) Divide all LEAs into groups by grade span (or the alternative grade-span groups described in paragraph (a)(1)) of this section and legal classification, if relevant and sufficiently different from grade span and size.

(ii) List all LEAs within each group in descending order by size as measured by ADA, placing the LEA with the *largest* ADA at the top of the list. A State that does not tabulate actual annual ADA shall use the same formula for establishing ADA for the purpose of ranking LEAs by size as the Department has approved for the purpose of calculating payments under section 8003 for applicant LEAs in the State.

(iii) After consultation with the applicant LEAs in the State, divide each group into either two subgroups or three subgroups.

(iv) To determine the subgroups, divide each list at the point(s) that will result in as nearly equal numbers of LEAs in each subgroup as possible, so that no group is more than one LEA larger than any other group.

(3) *Grouping by grade span/legal classification and location.* Divide all LEAs into groups by grade span (or the alternative grade-span groups described in paragraph (a)(1) of this section) and, if relevant and sufficiently different from grade span and location, legal classification; then subdivide these groups by location, as determined by placement inside or outside a metropolitan statistical area (MSA) as defined by the U.S. Bureau of the Census. The Department will supply SEAs with lists of MSA classifications for their LEAs, and only the classifications on those lists will be recognized by the Department for the purposes of these regulations.

(4) *Grouping by grade span/legal classification, size, and location.* (i) Divide all LEAs into groups by grade span (or the alternative grade-span groups described in paragraph (a)(1) of this section) and, if relevant and sufficiently different from grade span, size, and location, legal classification; then subdivide these groups by size (into two or three subgroups for each grade span, as described in paragraph (a)(2) of this section); and further subdivide these groups by location (inside or outside an MSA).

(ii) In using both the size and location factors, the SEA shall subdivide according to the size factor before the location factor.

(b) After applying the following restrictions, the SEA shall compute an LCR according to the provisions of § 222.41 for each group of generally comparable LEAs identified under paragraph (a) of this section, as follows:

(1) The SEA shall not, when computing an LCR, include the following "significantly impacted" LEAs in any group of generally comparable LEAs:

(i) Any LEA having—in the third fiscal year preceding the fiscal year for which the LCR is being computed—20 percent or more of its ADA composed of children identified under section 8003(a)(1)(A)–(C).

(ii) Any LEA having—in the third fiscal year preceding the fiscal year for which the LCR is being computed—50 percent or more of its ADA composed of children identified under section 8003(a)(1)(A)–(G) who were eligible under § 222.36 to be counted as the basis for payment under section 8003.

(2) The SEA may not compute an LCR for any group that contains fewer than 10 LEAs.

(c)(1) For an applicant LEA that satisfies the requirements contained in paragraph (c)(3) of this section, the SEA, in consultation with the LEA, may select a subgroup of 10 or more generally comparable LEAs from the group identified under paragraph (a)(2) of this section that includes the applicant LEA.

(2) An LEA that otherwise meets either of the requirements of paragraph (c)(3) of this section but serves a different span of grades from all other LEAs in its State (and therefore cannot match any group of generally comparable LEAs under paragraph (a)(2) of this section) must be matched, for purposes of this paragraph (c) only, to a group using legal classification and size as measured by ADA. The group identified using legal classification and size will be the applicant's group under paragraph (a)(2) of this section for purposes of this paragraph (c) only.

(3) In order to qualify under paragraph (c) (1) or (2) of this section, an applicant LEA must either—

(i)(A) Be located entirely on Federal land; and

(B) Be raising either no local revenues or an amount of local revenues the Secretary determines to be minimal; or

(ii)(A) Be located in a State where State aid makes up no more than 40

percent of the State average per pupil expenditure in the third fiscal year preceding the fiscal year for which the LCR is being computed;

(B) In its application, have federally connected children identified under section 8003(a)(1)(A)–(C) equal to at least 20 percent of its total ADA; and

(C) In its application, have federally connected children identified under section 8003(a)(1)(A)–(C) who were eligible under § 222.36 to be counted as the basis for payment under section 8003 equal to at least 50 percent of its total ADA.

(4) In the case of an applicant LEA that meets either of the requirements contained in paragraph (c)(3) of this section, the SEA, in consultation with the LEA, may select 10 or more generally comparable LEAs that share one or more common factors of general comparability with the eligible applicant LEA, as follows:

(i)(A) The SEA must consider one or more generally accepted, objectively defined factors that affect the applicant's cost of educating its children. Examples of such cost-related factors include location inside or outside an MSA, sparsity of population, an unusually large geographical area, economically depressed area, low-income families, children with disabilities, neglected or delinquent children, low-achieving children, children with limited English proficiency, and minority children.

(B) The SEA may not consider cost-related factors that can be varied at the discretion of the applicant LEA or its generally comparable LEAs or factors dependent on the wealth of the applicant LEA or its generally comparable LEAs. Examples of factors that may not be considered include special alternative curricular programs, pupil-teacher ratio, and per pupil expenditures.

(ii) The SEA must apply the factor or factors of general comparability recommended under paragraph (c)(4)(i)(A) of this section in one of the following ways in order to identify 10 or more generally comparable LEAs for the eligible applicant LEA, none of which may be significantly impacted LEAs:

(A) The SEA identifies all of the LEAs in the group to which the eligible applicant LEA belongs under paragraph (a)(2) of this section that share the recommended factor or factors. If the subgroup containing the eligible applicant LEA includes at least 10 other LEAs (excluding significantly impacted LEAs), it will be the eligible applicant LEA's new group of generally comparable LEAs. The LCR for the eligible applicant LEA shall be computed using the data for all of the LEAs in the subgroup except the eligible applicant LEA.

Example. An eligible applicant LEA contains a designated economically depressed area, and the SEA recommends "economically depressed area" as an additional factor of general comparability. From the group of LEAs under paragraph (a)(2) of this section that includes the eligible applicant LEA, the SEA identifies two subgroups, those LEAs that contain a designated economically depressed area and those that do not. The entire subgroup identified by the SEA that includes the eligible applicant LEA is that LEA's new group of generally comparable LEAs if it contains at least 10 LEAs.

(B) After the SEA identifies all of the LEAs in the group that the eligible applicant LEA belongs to under paragraph (a)(2) of this section that share the recommended factor or factors, the SEA then systematically orders all of the LEAs in the group that includes the eligible applicant LEA. The SEA may further divide the ordered LEAs into subgroups by using logical division points (e.g., the median, quartiles, or standard deviations) or a continuous interval of the ordered LEAs (e.g., a percentage or a numerical range). If the subgroup containing the eligible applicant LEA includes at least 10 other LEAs (excluding significantly impacted LEAs), it will be the eligible applicant LEA's new group of generally comparable LEAs. The LCR for the eligible applicant LEA shall be computed using the data for all of the LEAs in the subgroup except the eligible applicant LEA.

Example 1. An eligible applicant LEA serves an unusually high percentage of children with disabilities, and the SEA recommends "proportion of children with disabilities" as an additional comparability factor. From the group of LEAs under paragraph (a)(2) of this section that includes the eligible applicant LEA, the SEA lists the LEAs in descending order according to the percentage of children with disabilities enrolled in each of the LEAs. The SEA divides the list of LEAs into four groups containing equal numbers of LEAs. The group containing the eligible applicant LEA is that LEA's new group of generally comparable LEAs if it contains at least 10 LEAs.

Example 2. An eligible applicant LEA serves an unusually high percentage of minority children, and the SEA recommends "proportion of minority children" as an additional comparability factor. From the group of LEAs under paragraph (a)(2) of this section that includes the eligible applicant LEA, the SEA lists the LEAs in descending order according to the percentage of minority children enrolled in each of the LEAs. The SEA chooses from the list of LEAs the 15 LEAs whose percentages of minority children are closest to the eligible applicant LEA's. These 15 LEAs will be the eligible applicant LEA's new group of generally comparable LEAs.

(C) The SEA may recommend and apply more than one factor of general comparability in selecting a new group of 10 or more generally comparable LEAs for the eligible applicant LEA. If the subgroup containing the eligible applicant LEA includes at least 10 other LEAs (excluding significantly impacted LEAs), it will be the eligible applicant LEA's new group of generally comparable LEAs. The LCR for the eligible applicant LEA shall be computed using the data from all of the LEAs in the subgroup except the eligible applicant LEA.

Example. An eligible applicant LEA is very sparsely populated and serves an unusually high percentage of children with limited English proficiency. The SEA recommends "sparsity of population" and "proportion of children with limited English proficiency" as additional comparability factors. From the group of LEAs under paragraph (a)(2) of this section that includes the eligible applicant LEA, the SEA identifies all LEAs that are sparsely populated. The SEA further subdivides the sparsely populated LEAs into two groups, those that serve an unusually high percentage of children with limited English proficiency and those that do not. The subgroup of at least 10 sparsely populated LEAs that serve a high percentage of children with limited English proficiency is the eligible applicant LEA's new group of generally comparable LEAs.

(4)(i) Using the new group of generally comparable LEAs selected under paragraph (c)(4) of this section, the SEA shall compute the LCR for the eligible applicant LEA according to the provisions of § 222.41.

(ii) The SEA shall submit the resulting LCR to the Secretary and provide the Secretary a description of the additional factor or factors of general comparability and the data used to identify the new group of generally comparable LEAs.

(iii) The Secretary reviews the data submitted by the SEA, and accepts the LCR for the purpose of use under section 8003(b)(1)(C)(iii) in determining the LEA's maximum payment under section 8003 if the Secretary determines that it meets the purposes and requirements of the Act and this part.

(d) This section does not apply to applicant LEAs located in—

(1) Puerto Rico;
(2) Wake Island;
(3) Guam;
(4) American Samoa;
(5) Any outlying area; and
(6) Any State in which there is only one LEA.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7703(b)(1)(C)(iii))

§ 222.40 How does a local educational agency select a local contribution rate based on generally comparable local educational agencies?

(a) In selecting an LCR based upon generally comparable LEAs, an LEA shall use the following steps:

(1) *Step 1.* The LEA shall select the factor or factors in § 222.39 the LEA wishes to use as the basis for general comparability.

(2) *Step 2.* Using State-supplied data, the LEA shall identify within the State the entire group of LEAs (containing at least 10 LEAs exclusive of significantly impacted LEAs described in § 222.39(b)(1)) that matches the factor or factors selected in Step 1 and that contains the applicant LEA or would contain the applicant LEA if it were not significantly impacted.

(3) *Step 3.* The LEA shall recommend to the Secretary the LCR, which the SEA has computed according to the provisions of § 222.39, based on the group identified in Step 2.

(b) A significantly impacted LEA described in § 222.39(b)(1) may—

(1) Apply for assistance under this program; and

(2) Under the generally comparable LEA method, recommend for itself the LCR of any group in which it would be included based on grade span/legal classification, size, location, or a combination of these factors, if it were not excluded as significantly impacted in § 222.39(b)(1).

Example. An LEA applies for assistance under section 8003 and wishes to recommend to the Secretary an LCR based on generally comparable LEAs within its State.

1. Characteristics of Applicant LEA

The grade span of the applicant LEA is kindergarten through grade 8 (K–8). In the applicant's State, legal classification of LEAs is based on grade span, and thus does not act to further subdivide groups of LEAs.

The ADA of the applicant LEA is above the median ADA of LEAs serving only K–8 in the State.

The applicant LEA is located outside an MSA.

2. Characteristics of Other LEAs Serving Same Grade Span

The SEA of the applicant's State groups all LEAs in its State according to the factors in § 222.39.

(a) The SEA identifies the following groups:

(i) One hundred and one LEAs serve only K–8. The SEA has identified a group of 50 LEAs having an ADA above the median ADA for the group of 101, one LEA having an ADA at the median, and a group of 50 LEAs having an ADA below the median ADA; and according to § 222.39(a)(2)(i), the SEA considers 51 LEAs to have an ADA below the median ADA.

(ii) Of the 101 LEAs in the group, the SEA has identified a group of 64 LEAs as being inside an MSA and a group of 37 LEAs as being outside an MSA.

(iii) Among the group of 50 LEAs having an ADA above the median, the SEA has identified a group of 35 LEAs as being inside an MSA and a group of 15 LEAs as being outside an MSA.

(iv) Among the group of 51 LEAs having an ADA at or below the median, the SEA has identified a group of 29 LEAs as being inside an MSA and 22 LEAs as being outside an MSA.

(v) One LEA has 20 percent of its ADA composed of children identified under section 8003(a)(1)(A)–(C) and, therefore, must be excluded from any group it falls within before the SEA computes an LCR for the group. The LEA has an ADA below the median ADA and is located outside an MSA.

(b) On the basis of § 222.41, the SEA computes the LCR for each group of generally comparable LEAs that the SEA has identified.

3. Selection of Generally Comparable LEAs

The applicant LEA selects the group of generally comparable LEAs matching the factor or factors it wishes to use as the basis for general comparability. Under the requirements of § 222.39, the applicant LEA must begin with the group that includes all LEAs with its grade span, and, if relevant and sufficiently different, legal classification. In this case, grade span and legal classification happen to be the same. Thus, the group would include 100 LEAs, after excluding the one significantly impacted LEA. The applicant LEA then has several options:

(a) *Option 1.* The applicant LEA may select as its group of generally comparable LEAs on which to base its recommended LCR the entire group of 100 LEAs serving K–8, after excluding the one significantly impacted LEA. The applicant LEA then recommends to the Secretary as its LCR the rate computed for this group by the SEA.

(b) *Option 2.* Instead of selecting the group of 100, the applicant LEA may select as its generally comparable group only those LEAs within the 101 (the significantly impacted LEA must be included initially for the purpose of determining the median ADA) that have an ADA above the median ADA, that is, the group of 50. The applicant LEA then recommends to the Secretary as its LCR the rate computed for the group by the SEA.

(c) *Option 3.* Instead of selecting either of the groups described in Options 1 and 2, the applicant LEA may select as its generally comparable group only those LEAs within the 100 that are outside an MSA; that is, the group of 36, after excluding the one significantly impacted LEA. The applicant LEA then recommends to the Secretary as its LCR the rate computed for this group by the SEA.

(d) *Option 4.* Instead of selecting any of the groups described in Options 1, 2, and 3, the applicant LEA may select as its generally comparable group only those LEAs that both have an ADA above the median ADA for the 101 and are outside an MSA; that is, the group of 15. The applicant LEA then recommends to the Secretary as its LCR the rate computed for this group by the SEA. However, as provided in § 222.39(b)(2), if the SEA were to have identified fewer than 10 LEAs under any factor or combination of factors, the SEA would not have computed a rate for such a group. Therefore, an applicant LEA included in such a group would not be able to use this factor or combination of factors in recommending its LCR to the Secretary. The significantly impacted LEA described in § 222.39(b)(1), while included for determining the median ADA, is excluded from the computation of any group's LCR. However, the significantly impacted LEA may recommend for itself the LCR of any group it matches in grade span/legal classification, size, location, or a combination of these factors, (that is, in the case of the significantly impacted LEA referred to in this example, below the median ADA and outside an MSA), provided the group contains at least 10 LEAs that are not significantly impacted.

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(Authority: 20 U.S.C. 7703(b)(1)(C)(iii) and 7703(f)(3)(A)(i)(II) and (III))

§ 222.41 How does a State educational agency compute local contribution rates based upon generally comparable local educational agencies?

Except as otherwise specified in the Act, the SEA, subject to the Secretary's review and approval, shall compute an LCR for each group of generally comparable LEAs within its State that was identified using the factors in § 222.39, as follows:

(a)(1) The SEA shall compile the aggregate local current expenditures of the comparable LEAs in each group for the third fiscal year preceding the fiscal year for which the LCR is being computed.

(2) For purposes of this section, the SEA shall consider only those aggregate current expenditures made by the generally comparable LEAs from revenues derived from local sources. No State or Federal funds may be included.

(b) The SEA shall compile the aggregate number of children in ADA to whom the generally comparable LEAs in each group provided a free public education during the third fiscal year preceding the fiscal year for which the LCR is being computed.

(c) The SEA shall divide—

(1) The aggregate current expenditures determined under paragraph (a) of this section by;

(2) The aggregate number of children determined under paragraph (b) of this section.

(d) The SEA shall submit the resulting figure as the "comparable LCR" to be used by the Secretary under section 8003(b)(1)(C)(iii) in determining the LEA's maximum payment amount under section 8003.

(Authority: 20 U.S.C. 7703(b)(1)(C)(iii))

§§ 222.42–222.49 [Reserved]

Subpart D—Payments under Section 8003(d) of the Act for Local Educational Agencies That Serve Children with Disabilities

§ 222.50 What definitions apply to this subpart?

In addition to the terms referenced or defined in § 222.2, the following definitions in 20 U.S.C. 1401 or 34 CFR § 77.1 apply to this subpart:

Children with disabilities means children—

(1)(i) With mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) Who, by reason thereof, need special education and related services.

(2) The term "children with disabilities" for children aged 3 to 5,

inclusive, may, at a State's discretion, include children—

(i) Experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) Who, by reason thereof, need special education and related services.

Children with specific learning disabilities means children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. These disorders include conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. This term does not include children who have learning problems which are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

Free appropriate public education means special education and related services that—

(1) Have been provided at public expense, under public supervision and direction, and without charge;

(2) Meet the standards of the State educational agency;

(3) Include an appropriate preschool, elementary, or secondary school education in the State involved; and

(4) Are provided in conformity with the individualized education program (IEP) required under section 1414(a)(5) of the Individuals with Disabilities Education Act.

Individualized education program (IEP) means—

(1) A written statement for each child with a disability developed in any meeting by a representative of the LEA or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, the teacher, the parents or guardian of the child, and whenever appropriate, the child, which statement must include—

(i) A statement of the present levels of educational performance of the child;

(ii) A statement of annual goals, including short-term instructional objectives;

(iii) A statement of the specific educational services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs;

(iv) A statement of the needed transition services for students beginning no later than age 16 and annually thereafter (and, when determined appropriate for the individual, beginning at age 14 or younger), including, when appropriate, a statement of the interagency responsibilities or linkages (or both) before the student leaves the school setting;

(v) The projected date for initiation and anticipated duration of these services; and

(vi) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

(2) In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives.

Intermediate educational unit means any public authority, other than an LEA, that is under the general supervision of a State educational agency, that is established by State law for the purpose or providing free public education on a regional basis, and that provides special education and related services to children with disabilities within that State.

Preschool means the educational level from a child's birth to the time at which the State provides elementary education.

Related services means transportation and those developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, and medical services, except that medical services must be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

Special education means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a child with a disability, including—

(1) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(2) Instruction in physical education.

(Authority: 20 U.S.C. 1221e–3(a)(1), 1401, 7703, 7705, 7713; 37 U.S.C. 101)

§ 222.51 Which children may a local educational agency count for payment under section 8003(d) of the Act?

(a) Except as provided in paragraph (b)(2) of this section, the children described in sections 8003(a)(1)(A)(ii), (a)(1)(B), (a)(1)(C), and (a)(1)(D) of the Act who are eligible for services under the provisions of the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*) may be counted by the local educational agency (LEA) for the purpose of computing a payment under section 8003(d).

(b)(1) An LEA may count a child or children described in paragraph (a) of this section who attend private schools or residential programs if the LEA has placed or referred the child or children in accordance with the provisions of section 613 of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.* and 34 CFR Part 300, subparts C and D.

(2) Children who are placed in private schools by their parents may not be counted under section 8003(d), but may participate in public school programs that use section 8003(d) funds.

(Authority: 20 U.S.C. 1400 *et seq.* and 7703(d))

§ 222.52 What requirements must a local educational agency meet to receive a payment under section 8003(d)?

To receive a payment under section 8003(d), an eligible LEA shall—

(a) State in its application the number of federally connected children with disabilities it claims for a payment under section 8003(d);

(b) Have in effect a written IEP for each federally connected child with disabilities claimed for a payment under section 8003(d); and

(c) Meet the requirements of subparts A and C of the regulations in this part.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 1400 *et seq.* and 7703)

§ 222.53 What restrictions and requirements apply to the use of funds provided under section 8003(d)?

(a) An LEA shall use funds provided under section 8003(d) in accordance with the provisions of section 8003(d)(2) and 34 CFR part 300.

(b) Obligations and expenditures of section 8003(d) funds may be incurred in either of the two following ways:

(1) An LEA may obligate or expend section 8003(d) funds for the fiscal year for which the funds were appropriated.

(2) An LEA may reimburse itself for obligations or expenditures of local and general State aid funds for the fiscal year for which the section 8003(d) funds were appropriated.

(c) An LEA shall use its section 8003(d) funds for the following types of expenditures:

(1) Expenditures that are reasonably related to the conduct of programs or

projects for the free appropriate public education of federally connected children with disabilities. These expenditures may include program planning and evaluation but may not include construction of school facilities.

(2) Acquisition cost (net invoice price) of equipment required for the free appropriate public education of federally connected children with disabilities.

(i) If section 8003(d) funds are used for the acquisition of any equipment described in this paragraph (c)(2) of this section, the fair market value of any financial advantage realized through rebates, discounts, bonuses, free pieces of equipment used in a program or project for the free appropriate public education of federally connected children with disabilities, or other circumstances, is not an allowable expenditure and may not be credited as an expenditure of those funds.

(ii) Funds awarded under the provisions of section 8003(d) may be used to acquire equipment for the free appropriate public education of the federally connected children with disabilities only if title to the equipment would be in the applicant agency.

(d) An LEA shall account for the use of section 8003(d) funds as follows:

(1) By recording, for each fiscal year, the receipt (or credit) of section 8003(d) funds separately from other funds received under the Act, *i.e.*, on a line item basis in the general fund account or in a separate account; and

(2) By demonstrating that, for each fiscal year, the amount of expenditures for special education and related services provided to the federally connected children with disabilities is at least equal to the amount of section 8003(d) funds received or credited for that fiscal year. This is done as follows:

(i) For each fiscal year determine the amount of an LEA's expenditures for special education and related services provided to all children with disabilities.

(ii) The amount determined in paragraph (d)(2)(i) of this section is divided by the average daily attendance (ADA) of the total number of children with disabilities the LEA served during that fiscal year.

(iii) The amount determined in paragraph (d)(2)(ii) of this section is then multiplied by the total ADA of the LEA's federally connected children with disabilities claimed by the LEA for that fiscal year.

(3) If the amount of section 8003(d) funds the LEA received (or was credited) for the fiscal year exceeds the amount obtained in paragraph (d)(2)(iii) of this section, an overpayment equal to the excess section 8003(d) funds is established. This overpayment may be reduced or eliminated to the extent that the LEA can demonstrate that the average per pupil expenditure for special education and related services provided to federally connected children with disabilities exceeded its average per pupil expenditure for serving non-federally connected children with disabilities.

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(Authority: 20 U.S.C. 7703(d))

§ 222.54 What supplement-not-supplant requirement applies to this subpart?

Funds provided under section 8003(d) may not supplant any State funds that were or would have been available to the LEA for the free appropriate public education of children counted under section 8003(d).

(a) No section 8003(d) funds may be paid to an LEA whose per pupil State aid for federally connected children with disabilities, either general State aid or special education State aid, has been or would be reduced as a result of eligibility for or receipt of section 8003(d) funds, whether or not a State has a program of State aid that meets the requirements of section 8009 of the Act and subpart K of the regulations in this part.

(1) A reduction in the per pupil amount of State aid for children with disabilities, including children counted under section 8003(d), from that received in a previous year raises a presumption that supplanting has occurred.

(2) The LEA may rebut this presumption by demonstrating that the reduction was unrelated to the receipt of section 8003(d) funds.

(b) In any State in which there is only one LEA, all funds for programs for children with disabilities other than funds from Federal sources are considered by the Secretary to be local funds.

(Authority: 20 U.S.C. 7703(d))

§ 222.55 What other statutes and regulations are applicable to this subpart?

Local educational agencies receiving funds under section 8003(d) are subject to the requirements of the Individuals with Disabilities Education Act, and related regulations (20 U.S.C. 1401 *et seq.* and 34 CFR part 300).

(Authority: 20 U.S.C. 1401 *et seq.*, 6314, and 7703(d))

§§ 222.56 222.59 [Reserved]

Subpart E—Additional Assistance for Heavily Impacted Local Educational Agencies under Section 8003(f) of the Act

§ 222.60 What are the scope and purpose of these regulations?

The regulations in this subpart implement section 8003(f) of the Act, which provides financial assistance, in addition to payments under sections 8003(b) and 8003(d) of the Act, to certain heavily impacted local educational agencies (LEAs) that meet all relevant eligibility requirements.

(Authority: 20 U.S.C. 7703(f))

§ 222.61 What data are used to determine a local educational agency's eligibility and payment under section 8003(f) of the Act?

(a) Computations and determinations made with regard to an LEA's eligibility (§§ 222.61–222.71) and payment (§§ 222.72–222.73) under section 8003(f) are based on the LEA's final student and financial data for the fiscal year for which it seeks assistance and, in certain cases, final financial data for the preceding and second preceding fiscal years of the LEAs determined under §§ 222.39–222.41 or § 222.74 to be generally comparable to the applicant LEA ("generally comparable LEAs").

(b) For purposes of this subpart, "level of education" means average per pupil expenditure amount.

(Authority: 20 U.S.C. 7703(f))

§ 222.62 Which local educational agencies are eligible to apply for an additional payment under section 8003(f)?

Local educational agencies that are eligible to apply for additional assistance under section 8003(f) include those that have—

(a)(1) A tax effort equal to at least 95 percent of the average tax rate of generally comparable LEAs identified under §§ 222.39–222.41 or 222.74; and

(2)(i) Federally connected children equal to at least 50 percent of the total number of children in average daily attendance (ADA) if a section 8003(b) payment is received on behalf of children described in section 8003(a)(1)(F)–(G); or

(ii) Federally connected children equal to at least 40 percent of the total number of children in ADA if a section 8003(b) payment is not received on behalf of children described in section 8003(a)(1)(F)–(G);

(b)(1) A tax effort equal to at least 125 percent of the average tax rate of generally comparable LEAs identified under §§ 222.39–222.41; and

(2) Federally connected children equal to at least 35 percent of the total number of children in ADA;

(c) The same boundaries as those of a Federal military installation; or

(d) Current expenditures that are not reasonably comparable to those of generally comparable LEAs identified under §§ 222.39–222.41 because unusual geographical factors affect the applicant LEAs' current expenditures necessary to maintain a level of education equivalent to that of generally comparable LEAs.

(Authority: 20 U.S.C. 7703(f))

§ 222.63 What other requirements must a local educational agency meet in order to be eligible for financial assistance under section 8003(f)(2)(A)?

Subject to § 222.65, an LEA described in § 222.62(a), (b), or (c) is eligible for financial assistance under section 8003(f)(2)(A) if the Secretary determines that the LEA meets all of the following requirements:

(a) The LEA is eligible for a basic support payment under section 8003(b).

(b) The LEA timely applies for assistance under section 8003(f) and meets all of the other application and eligibility requirements of subparts A and C of these regulations.

(c) The LEA is exercising due diligence in availing itself of revenues derived from State and other sources and, except for an LEA described in § 222.62(c), is making a reasonable tax effort in accordance with the requirements of §§ 222.66 - 222.71.

(d) The eligibility of the LEA for State aid and the amount of State aid are determined on a basis no less favorable than that for other LEAs in the State.

(Authority: 20 U.S.C. 7703(f))

§ 222.64 What other requirements must a local educational agency meet in order to be eligible for financial assistance under section 8003(f)(2)(B)?

Subject to § 222.65, an LEA described in § 222.62(d) is eligible for financial assistance under section 8003(f)(2)(B) if the Secretary determines that the LEA meets all of the following requirements—

(a) The LEA complies with the requirements of § 222.63(a)–(d).

(b)(1) As part of its section 8003(f) application, the LEA provides the Secretary with documentation that demonstrates that the LEA is unable to provide a level of education equivalent to that provided by its generally comparable LEAs because—

(i) The applicant's current expenditures are affected by unusual geographical factors; and

(ii) As a result, those current expenditures are not reasonably comparable to the current expenditures of its generally comparable LEAs.

(2) The LEA's application must include—

(i) A specific description of the unusual geographical factors on which the applicant is basing its request for compensation under this section and objective data demonstrating that the applicant is more severely affected by these factors than any other LEA in its State;

(ii) Objective data demonstrating the specific ways in which the unusual geographical factors affect the applicant's current expenditures so that they are not reasonably comparable to the current expenditures of its generally comparable LEAs;

(iii) Objective data demonstrating the specific ways in which the unusual geographical factors prevent the applicant from providing a level of education equivalent to that provided by its generally comparable LEAs; and

(iv) Any other information that the Secretary may require to make an eligibility determination under this section.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7703(f))

§ 222.65 How may a State aid program affect a local educational agency's eligibility for assistance under section 8003(f)?

The Secretary determines that an LEA is not eligible for financial assistance under section 8003(f) if—

(a) The LEA is in a State that has an equalized program of State aid that meets the requirements of section 8009; and

(b) The State, in determining the LEA's eligibility for or amount of State aid, takes into consideration the LEA's payment under section 8003(f).

(Authority: 20 U.S.C. 7703(f))

§ 222.66 How does the Secretary determine whether a fiscally independent local educational agency is making a reasonable tax effort?

(a) To determine whether a fiscally independent LEA, as defined in § 222.2(c), is making a reasonable tax effort as required by §§ 222.63 or 222.64, the Secretary compares the LEA's local real property tax rates for current expenditure purposes (referred to in this part as "tax rates"), as defined in § 222.2(c), with the tax rates of its generally comparable LEAs.

(b) For purposes of this section, the Secretary uses—

(1) Actual tax rates if all the real property in the LEA and its generally comparable LEAs is assessed at the same percentage of true value; or

(2) Tax rates computed under §§ 222.67–222.69.

(c) The Secretary determines that an LEA described in § 222.62(a) or (d) is making a reasonable tax effort if—

(1) The LEA's tax rate is equal to at least 95 percent of the average tax rate of its generally comparable LEAs;

(2) Each of the LEA's tax rates for each classification of real property is equal to at least 95 percent of each of the average tax rates of its generally comparable LEAs for the same classification of property;

(3) The LEA taxes all of its real property at the maximum rates allowed by the State, if those maximum rates apply uniformly to all LEAs in the State; or

(4) The LEA has no taxable real property.

(d) The Secretary determines that an LEA described in § 222.62(b) is making a reasonable tax effort if—

(1) The LEA's tax rate is equal to at least 125 percent of the average tax rate of its generally comparable LEAs;

(2) Each of the LEA's tax rates for each classification of real property is equal to at least 125 percent of each of the average tax rates of its generally comparable LEAs for the same classification of property;

(3) The LEA taxes all of its real property at the maximum rates allowed by the State, if those maximum rates apply uniformly to all LEAs in the State; or

(4) The LEA has no taxable real property.

(Authority: 20 U.S.C. 7703(f))

§ 222.67 What tax rates does the Secretary use if real property is assessed at different percentages of true value?

If the real property of an LEA and its generally comparable LEAs consists of one classification of property but the property is assessed at different percentages of true value in the different LEAs, the Secretary determines whether the LEA is making a reasonable tax effort under § 222.66(c)(1) or (d)(1) by using tax rates computed by—

(a) Multiplying the LEA's actual tax rate for real property by the percentage of true value assigned to that property for tax purposes; and

(b) Performing the computation in paragraph (a) of this section for each of its generally comparable LEAs and determining the average of those computed tax rates.

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(Authority: 20 U.S.C. 7703(f))

§ 222.68 What tax rates does the Secretary use if two or more different classifications of real property are taxed at different rates?

If the real property of an LEA and its generally comparable LEAs consists of two or more classifications of real property taxed at different rates, the Secretary determines whether the LEA is making a reasonable tax effort under § 222.66(c)(1) or (2) or § 222.66(d)(1) or (2) by using one of the following:

(a) Actual tax rates for each of the classifications of real property.

(b) Tax rates computed in accordance with § 222.67 for each of the classifications of real property.

(c) Tax rates computed by—

(1) Determining the total true value of all real property in the LEA by dividing the assessed value of each classification of real property in the LEA by the percentage of true value assigned to that property for tax purposes and aggregating the results;

(2) Determining the LEA's total revenues derived from local real property taxes for current expenditures (as defined in section 8013);

(3) Dividing the amount determined in paragraph (c)(2) of this section by the amount determined in paragraph (c)(1) of this section; and

(4) Performing the computations in paragraphs (c)(1), (2), and (3) of this section for each of the generally comparable LEAs and determining the average of their computed tax rates.

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(Authority: 20 U.S.C. 7703(f))

§ 222.69 What tax rates may the Secretary use if substantial local revenues are derived from local tax sources other than real property taxes?

(a) In a State in which a substantial portion of revenues for current expenditures for educational purposes is derived from local tax sources other than real property taxes, the State educational agency (SEA) may request that the Secretary take those revenues into account in determining whether an LEA in that State is making a reasonable tax effort under § 222.66.

(b) If, based upon the request of an SEA, the Secretary determines that it is appropriate to take the revenues described in paragraph (a) of this section into account in determining whether an LEA in that State is making a reasonable tax effort under § 222.66, the Secretary uses tax rates computed by—

(1) Dividing the assessed value of each classification of real property in the LEA by the percentage of true value assigned to that property for tax purposes and aggregating the results;

(2) Determining the LEA's total revenues derived from local tax sources for current expenditures (as defined in section 8013);

(3) Dividing the amount determined in paragraph (b)(2) of this section by the amount determined in paragraph (b)(1) of this section; and

(4) Performing the computations in paragraphs (b)(1), (2), and (3) of this section for each of the generally comparable LEAs and determining the average of those computed tax rates.

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(Authority: 20 U.S.C. 7703(f))

§ 222.70 How does the Secretary determine whether a fiscally dependent local educational agency is making a reasonable tax effort?

(a) If an LEA is fiscally dependent, as defined in § 222.2(c), the Secretary compares the LEA's imputed local tax rate, calculated under paragraph (b) of this section, with the average tax rate of its generally comparable LEAs, calculated under paragraph (c) of this section, to determine whether the LEA is making a reasonable tax effort.

(b) The Secretary imputes a local tax rate for a fiscally dependent LEA by—

(1) Dividing the assessed value of each classification of real property within the boundaries of the general government by the percentage of true value assigned to that property for tax purposes and aggregating the results;

(2) Determining the amount of locally derived revenues made available by the general government for the LEA's current expenditures (as defined in section 8013); and

(3) Dividing the amount determined in paragraph (b)(2) of this section by the amount determined in paragraph (b)(1) of this section.

(c) The Secretary performs the computations in paragraph (b) of this section for each of the fiscally dependent generally comparable LEAs and the computations in §§ 222.67–222.69, whichever is applicable, for each of the fiscally independent generally comparable LEAs and determines the average of all those tax rates.

(d) The Secretary determines that a fiscally dependent LEA described in § 222.62 (a) or (d) is making a reasonable tax effort if its imputed local tax rate is equal to at least 95 percent of the average tax rate of its generally comparable LEAs.

(e) The Secretary determines that a fiscally dependent LEA described in § 222.62(b) is making a reasonable tax effort if its imputed local tax rate is equal to at least 125 percent of the average tax rate of its generally comparable LEAs.

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(Authority: 20 U.S.C. 7703(f))

§ 222.71 What information must be provided by the State educational agency?

The SEA of any State with an LEA applying for assistance under section 8003(f) shall provide the Secretary with relevant information necessary to determine whether the LEA is making a reasonable tax effort under §§ 222.67–222.70, whichever is applicable.

(Approved by the Office of Management and Budget under control number 1810–0036.)

(Authority: 20 U.S.C. 7703(f))

§ 222.72 How does the Secretary determine a maximum payment for local educational agencies that are eligible for financial assistance under section 8003(f)(2)(A) and § 222.63?

(a) Except as otherwise provided in paragraphs (b) through (c) of this section or § 222.76, the Secretary determines a maximum payment under section 8003(f)(2)(A) for an eligible LEA by—

(1) First calculating the greater of—

(i) The State average per pupil expenditure (APPE) or the national APPE;

(ii) The APPE of generally comparable LEAs identified under §§ 222.39–222.41; or

(iii) The APPE of three generally comparable LEAs identified under § 222.74;

(2) Next subtracting from the amount calculated in paragraph (a)(1) of this section the average State aid per pupil amount received by the LEA;

(3) Multiplying the amount calculated in paragraph (a)(2) of this section by the total number of federally connected students in ADA who are eligible for basic support payments under section 8003(b);

(4) In the case of an LEA whose tax rate is at least 95 percent but less than 100 percent of the average tax rate of its generally comparable LEAs, reducing the amount calculated in paragraph (a)(3) of this section by the percentage that the average tax rate of its generally comparable LEAs exceeds the tax rate of the LEA; and

(5) Subtracting from the amount calculated in paragraph (a)(3), or paragraph (a)(4) of this section, the total amount of payments received by the eligible LEA under sections 8003 (b) and (d) for the fiscal year for which a payment is being determined under section 8003(f).

(b) For the first step of the computations described in paragraph (a) of this section, the Secretary calculates a maximum payment under section 8003(f)(2)(A) for an eligible LEA described in § 222.62 (b) or (c) by multiplying the national APPE by .70, except that the resulting amount may not exceed 125 percent of the State APPE.

(c) For the fourth step of the computations described in paragraph (a) of this section, generally comparable LEAs for reasonable tax effort purposes are the LEAs whose APPE is identified in § 222.72(a)(1) except that for applicant LEAs for whom the national APPE is identified, all LEAs in the applicant's State will be used as generally comparable LEAs for reasonable tax effort purposes.

(Authority: 20 U.S.C. 7703(f))

§ 222.73 How does the Secretary determine a maximum payment for local educational agencies that are eligible for financial assistance under section 8003(f)(2)(B) and § 222.64?

Except as otherwise provided in paragraphs (b) and (c) of this section and § 222.76, the Secretary determines a maximum payment under section 8003(f)(2)(B) for an eligible LEA as follows:

(a) The Secretary increases the eligible LEA's local contribution rate (LCR) for section 8003(b) payment purposes up to the amount the Secretary determines will compensate the applicant for the increase in its current expenditures necessitated by the unusual geographical factors identified under § 222.64(b)(2), but no more than is

necessary to allow the applicant to provide a level of education equivalent to that provided by its generally comparable LEAs.

(b) The increase in the LCR referred to in paragraph (a) of this section may not exceed the per pupil share (computed with regard to all children in ADA), as determined by the Secretary, of the increased current expenditures necessitated by the unusual geographical factors identified under § 222.64(b)(2).

(c) In the case of an LEA whose tax rate is at least 95 percent but less than 100 percent of the average tax rate of its generally comparable LEAs, reducing the amount calculated in paragraph (a) of this section by the percentage that the average tax rate of its generally comparable LEAs exceeds the tax rate of the LEA.

(Authority: 20 U.S.C. 7703(f))

§ 222.74 How does the Secretary identify generally comparable local educational agencies for purposes of section 8003(f)?

(a) Except as otherwise provided in paragraph (b) of this section, the Secretary identifies generally comparable LEAs for purposes of this subpart in accordance with the LCR procedures described in §§ 222.39–222.41.

(b) For applicant LEAs described in § 222.62(a), to identify the three generally comparable LEAs referred to in § 222.72(a)(1)(iii), the Secretary uses the following procedures:

(1) The Secretary asks the SEA of the applicant LEA to identify generally comparable LEAs in the State by first following the directions in § 222.39(a)(4), using data from the preceding fiscal year. The SEA then removes from the resulting list any LEAs that are significantly impacted, as described in § 222.39(b)(1), except the applicant LEA.

(2) If the remaining LEAs are not in rank order by total ADA, the SEA shall list them in that order.

(3) The LEA may then select as its generally comparable LEAs, for purposes of section 8003(f) only, three LEAs from the list that are closest to it in size as determined by total ADA (e.g., the next three larger LEAs, the next three smaller, the next two larger and the next one smaller, or the next one larger and the next two smaller).

(Authority: 20 U.S.C. 7703(f))

§ 222.75 How does the Secretary compute the average per pupil expenditure of generally comparable local educational agencies under this subpart?

The Secretary computes APPE under this subpart by—

(a) Dividing the sum of the total current expenditures for the preceding fiscal year for the identified generally comparable LEAs by the sum of the total ADA of those LEAs for the same fiscal year and performing this calculation again using data for the second preceding year; and

(b) Increasing or decreasing the APPE for the preceding fiscal year by the percentage the APPE of the generally comparable LEAs increased or decreased from the second preceding fiscal year to the preceding fiscal year.

(Authority: 20 U.S.C. 7703(f))

§ 222.76 What does the Secretary do if appropriation levels are insufficient to pay in full the amounts calculated under §§ 222.72 and 222.73?

Payments under section 8003(f) for eligible LEAs will be ratably reduced if the funds available for assistance under that section are insufficient to pay the full amounts determined under §§ 222.72 and 222.73.

(Authority: 20 U.S.C. 7703(f))

§§ 222.77–222.79 [Reserved]

Subpart F—[Reserved]

Subpart G—Special Provisions for Local Educational Agencies That Claim Children Residing on Indian Lands

General

§ 222.90 What definitions apply to this subpart?

In addition to the definitions in § 222.2, the following definitions apply to this subpart:

Indian children means children residing on Indian lands who are recognized by an Indian tribe as being affiliated with that tribe.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(Authority: 20 U.S.C. 7713, 7881, 7938, 8801)

§ 222.91 What requirements must a local educational agency meet to receive a payment under section 8003 of the Act for children residing on Indian lands?

To receive a payment under section 8003 of the Act for children residing on Indian lands, a local educational agency (LEA) must—

(a) Meet the application and eligibility requirements in section 8003 and subparts A and C of these regulations;

(b) Develop and implement policies and procedures in accordance with the provisions of section 8004(a) of the Act; and

(c) Include in its application for payments under section 8003—

(1) An assurance that the LEA established these policies and procedures in consultation with and based on information from tribal officials and parents of those children residing on Indian lands who are Indian children; and

(2) A copy of the policies and procedures or documentation that the LEA has received a waiver in accordance with the provisions of section 8004(c).

(Authority: 20 U.S.C. 7703(a), 7704(a), (c), and (d)(2))

§ 222.92 What additional statutes and regulations apply to this subpart?

(a) The following statutes and regulations apply to LEAs that claim children residing on Indian lands for payments under section 8003:

(1) The General Education Provisions Act (GEPA) in 20 U.S.C. 1221 *et seq.*, unless otherwise noted.

(2) Other relevant regulations in this part.

(b) The following statutes, rules, and regulations do not apply to any hearing proceedings under this subpart:

(1) Administrative Procedure Act.
(2) Federal Rules of Civil Procedure.
(3) Federal Rules of Evidence.
(4) GEPA, Part E.
(5) 34 CFR Part 81.

(Authority: 20 U.S.C. 1221 *et seq.* unless otherwise noted, 7703, and 7704)

§ 222.93 [Reserved]

Indian Policies and Procedures

§ 222.94 What provisions must be included in a local educational agency's Indian policies and procedures?

(a) An LEA's Indian policies and procedures (IPPs) must include a description of the specific procedures for how the LEA will—

(1) Give the tribal officials and parents of Indian children an opportunity to comment on whether Indian children participate on an equal basis with non-Indian children in the education programs and activities provided by the LEA;

(2) Assess the extent to which Indian children participate on an equal basis with non-Indian children served by the LEA;

(3) Modify, if necessary, its education program to ensure that Indian children participate on an equal basis with non-Indian children served by the LEA;

(4) Disseminate relevant applications, evaluations, program plans and information related to the education programs of the LEA in sufficient time to allow the tribes and parents of Indian children an opportunity to review the materials and make recommendations on the needs of the Indian children and how the LEA may help those children realize the benefits of the LEA's education programs and activities;

(5) Gather information concerning Indian views, including those regarding

the frequency, location, and time of meetings;

(6) Notify the Indian parents and tribes of the locations and times of meetings;

(7) Consult and involve tribal officials and parents of Indian children in the planning and development of the LEA's education programs and activities; and

(8) Modify the IPPs if necessary, based upon the results of any assessment described in paragraph (b) of this section.

(b) Tribes and parents of Indian children may assess the effectiveness of their input regarding the participation of Indian children in the LEA's education programs and activities and the development and implementation of the IPPs, and share the results of that assessment with the LEA.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 7704)

§ 222.95 How are Indian policies and procedures reviewed to ensure compliance with the requirements in section 8004(a) of the Act?

(a) The Director of the Impact Aid Program (Director) periodically reviews applicant LEAs' IPPs to ensure that they comply with the provisions of section 8004(a) and § 222.94.

(b) If the Director determines either that the LEA's IPPs do not comply with the minimum standards of section 8004(a), or that the IPPs have not been implemented in accordance with § 222.94, the Director provides the LEA with written notification of the deficiencies related to its IPPs and requires that the LEA take appropriate action.

(c) An LEA shall make the necessary changes within 60 days of receipt of written notification from the Director.

(d) If the LEA fails to make the necessary adjustments or changes within the prescribed period of time, the Director may withhold all payments that the LEA is eligible to receive under section 8003.

(e) Each LEA that has developed IPPs shall review those IPPs annually to ensure that they—

(1) Comply with the provisions in section 8004(a); and

(2) Are implemented by the LEA in accordance with § 222.94.

(f) If an LEA determines that its IPPs do not meet the requirements in paragraphs (e) (1) and (2) of this section, the LEA shall amend its IPPs to conform with those requirements within 60 days of its determination.

(g) An LEA that amends its IPPs shall send a copy of the amended IPPs to—

(1) The Director for approval; and

(2) The affected tribe or tribes.

(Authority: 20 U.S.C. 1221e-3(a)(1), 7704 (a) and (d)(2))

§§ 222.96–222.101 [Reserved]

Indian Policies and Procedures Complaint and Hearing Procedures

§ 222.102 Who may file a complaint about a local educational agency's Indian policies and procedures?

(a) Only a tribal chairman or an authorized designee for a tribe that has students attending an LEA's schools may file a written complaint with the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) regarding any action of the LEA pursuant to, or relevant to, section 8004(a) and § 222.94.

(b) If a tribe files a complaint through a designee, the tribe shall acknowledge in writing in the complaint that the designee is authorized to act on its behalf.

(Authority: 20 U.S.C. 7704(e)(1))

§ 222.103 What must be included in a complaint?

For purposes of this subpart, a complaint is a signed statement that includes—

(a) An allegation that an LEA has failed to develop and implement IPPs in accordance with section 8004(a);

(b) Information that supports the allegation;

(c) A specific request for relief; and

(d) A statement describing what steps the tribe has taken to resolve with the LEA the matters on which the complaint is based.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 7704(e)(1))

§ 222.104 When does the Assistant Secretary consider a complaint received?

(a) The Assistant Secretary considers a complaint to have been received only after the Assistant Secretary determines that the complaint—

(1) Satisfies the requirements in §§ 222.102 and 222.103; and

(2) Is in writing and signed by the tribal chairman or the tribe's authorized designee.

(b) If the Assistant Secretary determines that a complaint fails to meet the requirements in §§ 222.102–222.103, the Assistant Secretary notifies the tribe or its designee in writing that the complaint has been dismissed for purposes of invoking the hearing procedures in §§ 222.102–222.113.

(c) Any notification that a complaint has been dismissed includes the reasons why the Assistant Secretary determined that the complaint did not meet the requirements in §§ 222.102 and 222.103.

(d) Notification that a complaint has been dismissed does not preclude other efforts to investigate or resolve the issues raised in the complaint, including the filing of an amended complaint.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 7704(e)(1))

§ 222.105–222.107 [Reserved]

§ 222.108 What actions must be taken upon receipt of a complaint?

Within 10 working days of receipt of a complaint, the Secretary or his designee—

(a) Designates a hearing examiner to conduct a hearing;

(b) Designates a time for the hearing that is no more than 30 days after the designation of a hearing examiner;

(c) Designates a place for the hearing that, to the extent possible, is—

(1) Near the LEA; or

(2) At another location convenient to the tribe and the LEA, if it is determined that there is good cause to designate another location;

(d) Notifies the tribe and the LEA of the time, place, and nature of the hearing; and

(e) Transmits copies of the complaint to the LEA and the affected tribe or tribes.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 7704(e))

§ 222.109 When may a local educational agency reply to a complaint?

An LEA's reply to the charges in the complaint must be filed with the hearing examiner within 15 days of the date the LEA receives a copy of the notice and complaint described in § 222.108 (d) and (e) from the hearing examiner.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 7704(e))

§ 222.110 What are the procedures for conducting a hearing on a local educational agency's Indian policies and procedures?

Hearings on IPP complaints filed by an Indian tribe or tribes against an LEA are conducted as follows:

(a) The hearing must be open to the public.

(b) Parties may be represented by counsel.

(c)(1) Each party may submit oral and written testimony that is relevant to the issues in the proceeding and make recommendations concerning appropriate remedial actions.

(2) A party may object to evidence it considers to be irrelevant or unduly repetitious.

(d) No party shall communicate orally or in writing with the hearing examiner or the Assistant Secretary on matters under review, except minor procedural matters, unless all parties to the complaint are given—

(1) Timely and adequate notice of the communication; and

(2) Reasonable opportunity to respond.

(e) For each document that a party submits, the party shall—

(1) File one copy for inclusion in the record of the proceeding; and

(2) Provide a copy to each of the other parties to the proceeding.

(f) Each party shall bear only its own costs in the proceeding.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 7704(e))

§ 222.111 What is the authority of the hearing examiner in conducting a hearing?

The hearing examiner is authorized to conduct a hearing under section 8004(e) and §§ 222.109–222.113 as follows:

(a) The hearing examiner may—

(1) Clarify, simplify, or define the issues or consider other matters that may aid in the disposition of the complaint;

(2) Direct the parties to exchange relevant documents or information; and

(3) Examine witnesses.

(b) The hearing examiner—

(1) Regulates the course of proceedings and conduct of the parties;

(2) Arranges for the preparation of a transcript of each hearing and provides one copy to each party;

(3) Schedules the submission of oral and documentary evidence;

(4) Receives, rules on, excludes, or limits evidence;

(5) Establishes and maintains a record of the proceeding, including any transcripts referenced above;

(6) Establishes reasonable rules governing public attendance at the proceeding; and

(7) Is bound by all applicable statutes and regulations and may neither waive them nor rule them invalid.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 7704(e))

§ 222.112 What procedures are followed after the hearing?

(a) Each party may submit to the hearing examiner additional evidence that is relevant to the issues raised at the hearing, within the time period and in the manner specified by the hearing examiner.

(b) Within 30 days after the hearing, the hearing examiner—

(1) Makes, on the basis of the record, written findings of fact and recommendations concerning any appropriate remedial action that should be taken;

(2) Submits those findings and recommendations, along with the hearing record, to the Assistant Secretary; and

(3) Sends a copy of those findings and recommendations to each party.

(c)(1) Each party may file with the Assistant Secretary comments on the hearing examiner's findings and recommendations.

(2) The comments must be received by the Assistant Secretary within 10 days after the party receives a copy of the hearing examiner's findings and recommendations.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 7704(e))

§ 222.113 What are the responsibilities of the Assistant Secretary after the hearing?

(a) Within 30 days after receiving the entire hearing record and the hearing examiner's findings and recommendations, the Assistant Secretary makes, on the basis of the record, a written determination that includes—

(1) Any appropriate remedial action that the LEA must take;

(2) A schedule for completing any remedial action; and

(3) The reasons for the Assistant Secretary's decision.

(b) After completing the final determination required by paragraph (a) of this section, the Assistant Secretary sends the parties a copy of that determination.

(c) The Assistant Secretary's final determination under paragraph (a) of this section is the final action of the Department concerning the complaint and is subject to judicial review.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 7704(e))

§§ 222.114–222.129 [Reserved]

Subpart H—[Reserved]

Subpart I—Facilities Assistance and Transfers Under Section 8008 of the Act

§ 222.140 What definitions apply to this subpart?

In addition to the terms referenced or defined in § 222.2, the following definitions apply to this subpart:

Minimum school facilities means those school facilities for which the Secretary may provide assistance under this part as follows:

(1) The Secretary, after consultation with the State educational agency and the local educational agency (LEA), considers these facilities necessary to support an educational program—

(i) For the membership of students residing on Federal property to be served at normal capacity; and

(ii) In accordance with applicable Federal and State laws and, if necessary or appropriate, common practice in the State.

(2) The term includes, but is not restricted to—

(i) Classrooms and related facilities; and

(ii) Machinery, utilities, and initial equipment, to the extent that these are necessary or appropriate for school purposes.

Providing assistance means constructing, leasing, renovating, remodeling, rehabilitating, or otherwise providing minimum school facilities.

(Authority: 20 U.S.C. 7708)

§ 222.141 For what types of projects may the Secretary provide assistance under section 8008 of the Act?

The types of projects for which the Secretary may provide assistance under section 8008 of the Act during any given year include, but are not restricted to, one or more of the following:

(a)(1) Emergency repairs to existing facilities for which the Secretary is responsible under section 8008.

(2) As used in this section, the term "emergency repairs" means those repairs necessary—

(i) For the health and safety of persons using the facilities;

(ii) For the removal of architectural barriers to the disabled; or

(iii) For the prevention of further deterioration of the facilities.

(b) Renovation of facilities for which the Secretary is responsible under section 8008 to meet the standards of minimum school facilities in exchange for an LEA or another appropriate entity accepting transfer of the Secretary's interest in them under § 222.143.

(c) Provision of temporary facilities on Federal property pending emergency repairs.

(d) Construction of replacement minimum school facilities when more cost-effective than renovation and when the replacement facilities are to be transferred to local ownership under § 222.143.

(Authority: 20 U.S.C. 7708)

§ 222.142 What terms and conditions apply to minimum school facilities operated under section 8008 by another agency?

When minimum school facilities are provided under section 8008, the Secretary may—

(a) Arrange for the operation of the facilities by an agency other than the Department;

(b) Establish terms and conditions for the operation of the facilities; and

(c) Require the operating agency to submit assurances and enter into other arrangements that the Secretary specifies.

(Authority: 20 U.S.C. 7708)

§ 222.143 What terms and conditions apply to the transfer of minimum school facilities?

When the Secretary transfers to an LEA or other appropriate entity (transferee) facilities that have been used to carry out the purposes of section 10 of Pub. L. 81–815 or section 8008, the Secretary establishes appropriate terms and conditions for the transfer including that it be—

(a) Without charge; and

(b) Consented to by the transferee.

(Authority: 20 U.S.C. 7708)

§§ 222.144–222.149 [Reserved]

Subpart J—Impact Aid Administrative Hearings and Judicial Review Under Section 8011 of the Act

§ 222.150 What is the scope of this subpart?

(a) Except as provided in paragraph (b) of this section, the regulations in this subpart govern all Impact Aid administrative hearings under section 8011(a) of the Act and requests for reconsideration.

(b) Except as otherwise indicated in this part, the regulations in this subpart do not govern the following administrative hearings:

(1) Subpart G, §§ 222.90–222.114 (Indian policies and procedures tribal complaint and withholding hearings.

(2) Subpart K, § 222.165 (hearings concerning determinations under section 8009 of the Act).

(Authority: 20 U.S.C. 7711(a))

§ 222.151 Is an administrative hearing provided to a local educational agency?

(a) Any local educational agency (LEA) that is adversely affected by the Secretary's (or the Secretary's delegatee's) action or failure to act upon the LEA's application under the Act or Pub. L. 81–874 is entitled to an administrative hearing in accordance with this subpart.

(b) An applicant is entitled to an administrative hearing under this subpart only if—

(1) The applicant files a written request for an administrative hearing within 60 days of its receipt of written notice of the adverse action; and

(2) The issues of fact or law specified in the hearing request are material to the determination of the applicant's rights and are not committed wholly to the discretion of the Secretary.

(Authority: 20 U.S.C. 7711(a))

§ 222.152 When may a local educational agency request reconsideration of a determination?

(a)(1) An LEA may request reconsideration of any determination made by the Secretary (or the Secretary's delegatee) under the Act or Pub. L. 81–874, either in addition to or instead of requesting an administrative hearing under § 222.151.

(2) A request for reconsideration, or actual reconsideration by the Secretary (or the Secretary's delegatee), does not extend the time within which an applicant must file a request for an administrative hearing under § 222.151, unless the Secretary (or the Secretary's delegatee) extends that time limit in writing.

(b) The Secretary's consideration of a request for reconsideration is not prejudiced by a pending request for an administrative hearing on the same matter, or the fact that a matter has been scheduled for a hearing. The Secretary (or the Secretary's delegatee) may, but is not required to, postpone the administrative hearing due to a request for reconsideration.

(c) The Secretary may reconsider any determination under the Act or Pub. L. 81–874 concerning a particular party unless the determination has been the subject of an administrative hearing under this part with respect to that party.

(Authority: 20 U.S.C. 7711(a))

§ 222.153 How must a local educational agency request an administrative hearing?

An applicant requesting a hearing in accordance with this subpart must—

(a)(1) If it mails the hearing request, address it to the Secretary, c/o Director, Impact Aid Program, 600 Independence Ave., SW, Portals 4200, Washington, DC 20202–6244; or

(2) If it hand-delivers the hearing request, deliver it to the Director, Impact Aid Program, Portals Building, Room 4200, 1250 Maryland Avenue, SW, Washington DC;

(b) Clearly specify in its written hearing request the issues of fact and law to be considered; and

(c) Furnish a copy of its hearing request to its State educational agency (SEA) (unless the applicant is an SEA).

(Authority: 20 U.S.C. 7711(a))

§ 222.154 How must written submissions under this subpart be filed?

(a) All written submissions under this subpart must be filed by hand-delivery, mail, or facsimile transmission. The Secretary discourages the use of facsimile transmission for documents longer than five pages.

(b) If agreed upon by the parties, a party may serve a document upon the other party or parties by facsimile transmission.

(c) The filing date for a written submission under this subpart is the date the document is—

(1) Hand-delivered;

(2) Mailed; or

(3) Sent by facsimile transmission.

(d) A party other than the Department filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was received by the Department, including by the administrative law judge (ALJ).

(e) If a document is filed by facsimile transmission, the Secretary or ALJ, as applicable, may require the filing of a follow-up hard copy by hand-delivery or by mail within a reasonable period of time.

(Authority: 20 U.S.C. 7711(a))

§ 222.155 When and where is an administrative hearing held?

Administrative hearings under this subpart are held at the offices of the Department in Washington, DC, at a time fixed by the ALJ, unless the ALJ selects another place based upon the convenience of the parties.

(Authority: 20 U.S.C. 7711(a))

§ 222.156 How is an administrative hearing conducted?

Administrative hearings under this subpart are conducted as follows:

(a) The administrative hearing is conducted by an ALJ appointed under 5 U.S.C. 3105, who issues rules of procedure that are proper and not inconsistent with this subpart.

(b) The parties may introduce all relevant evidence on the issues stated in the applicant's request for hearing or on other issues determined by the ALJ during the proceeding. The application in question and all amendments and exhibits must be made part of the hearing record.

(c) Technical rules of evidence, including the Federal Rules of Evidence, do not apply to hearings conducted under this subpart, but the ALJ may apply rules designed to assure production of the most credible evidence available, including allowing the cross-examination of witnesses.

(d) Each party may examine all documents and other evidence offered or accepted for the record, and may have the opportunity to refute facts and arguments advanced on either side of the issues.

(e) A transcript must be made of the oral evidence unless the parties agree otherwise.

(f) Each party may be represented by counsel.

(g) The hearing examiner is bound by all applicable statutes and regulations and may neither waive them nor rule them invalid.

(Authority: 5 U.S.C. 556 and 3105; 20 U.S.C. 7711(a))

§ 222.157 What procedures apply for issuing or appealing an administrative law judge's decision under section 8011(a) of the Act?

(a) *Decision.* An ALJ must issue a decision under section 8011(a) as follows:

(1) Based upon the hearing record, the ALJ—

(i) Makes written findings and an initial decision; or

(ii) Makes recommended findings and a proposed decision, and certifies the entire record to the Secretary for a final decision.

(2) The ALJ mails to each party a copy of—

(i) The written findings and initial decision; or

(ii) The certified record, recommended findings, and proposed decision.

(3) An ALJ's initial decision constitutes the Secretary's final decision

without any further proceedings unless—

(i) The applicant, within the time limits stated in paragraph (c)(1) of this section, requests the Secretary to review the decision and that request is granted; or

(ii) The Secretary otherwise determines, within the time limits stated in paragraph (c)(2) of this section, to review the initial decision.

(b) *Administrative appeal of an initial decision.* (1) The applicant may, within 30 days of the date of the receipt of an initial decision, request the Secretary to review that decision.

(2) The Secretary may—

(i) Grant or deny a timely request for review of an initial decision; or

(ii) Otherwise determine to review the decision, so long as that determination is made within 45 days of the date of receipt of the initial decision.

(3) The Secretary mails to each party written notice of—

(i) The Secretary's action granting or denying a request for review of an initial decision; or

(ii) The Secretary's determination to review an initial decision.

(Authority: 20 U.S.C. 7711(a))

§ 222.158 What procedures apply to the Secretary's review of an initial decision or certified record?

When the Secretary reviews an initial decision or certified record (including the ALJ's proposed findings and recommended decision), the Secretary—

(a) Notifies the applicant in writing that it may file a written statement or comments; and

(b) Promptly gives to each party written notice of the Secretary's final decision.

(Authority: 20 U.S.C. 7711(a))

§ 222.159 When and where does a party seek judicial review?

If an LEA or a State that is aggrieved by the Secretary's final decision following an administrative hearing proceeding under this subpart wishes to seek judicial review, the LEA or State must, within 60 days after receiving notice of the Secretary's final decision, file with the United States Court of Appeals for the circuit in which that LEA or State is located a petition for review of the final agency action, in accordance with section 8011(b) of the Act.

(Authority: 20 U.S.C. 7711(b))

Subpart K—Determinations Under Section 8009 of the Act

§ 222.160 What are the scope and purpose of this subpart?

(a) *Scope.* This subpart applies to determinations made by the Secretary under section 8009 of the Act.

(b) *Purpose.* The sole purpose of the regulations in this subpart is to implement the provisions of section 8009. The definitions and standards contained in this subpart apply only with respect to section 8009 and do not establish definitions and standards for any other purpose.

(Authority: 20 U.S.C. 7709)

§ 222.161 How is State aid treated under section 8009 of the Act?

(a) *General rules.* (1) A State may take into consideration payments under sections 8002 and 8003(b) of the Act (including hold harmless payments calculated under section 8003(e)) in allocating State aid if that State has a State aid program that qualifies under § 222.162, except as follows:

(i) Those payments may be taken into consideration for each affected local educational agency (LEA) only in the proportion described in § 222.163.

(ii) A State may not take into consideration that portion of an LEA's payment that is generated by the portion of a weight in excess of one under section 8003(a)(2)(B) of the Act (children residing on Indian lands) or payments under section 8003(d) of the Act (children with disabilities), section 8003(f) of the Act (heavily impacted LEAs) and section 8003(g) of the Act (LEAs with high concentrations of children with severe disabilities).

(iii) A State may not take into consideration increases in payment under the following subsections of section 3(d) of Pub. L. 81–874:

(A) Section 3(d)(2)(B) (increase for heavily impacted LEAs).

(B) Section 3(d)(2)(C) (increase for children with disabilities and children with specific learning disabilities).

(C) Section 3(d)(2)(D) (increase for children residing on Indian lands).

(D) Section 3(d)(3)(B)(ii) (increase for unusual geographical factors).

(2) No State aid program may qualify under this subpart if a court of that State has determined by final order, not under appeal, that the program fails to equalize expenditures for free public education among LEAs within the State or otherwise violates law, and if the court's order provides that the program is no longer in effect.

(3) No State, whether or not it has an equalization program that qualifies under § 222.162, may, in allocating State aid, take into consideration an LEA's eligibility for payments under the Act if that LEA does not apply for and receive those payments.

(4) Any State that takes into consideration payments under the Act in accordance with the provisions of section 8009 in allocating State aid to LEAs must reimburse any LEA for any amounts taken into consideration for any fiscal year to the extent that the LEA did not in fact receive payments in those amounts during that fiscal year.

(5) A State may not take into consideration payments under the Act or under Public Law 874 before the State's State aid program has been certified by the Secretary.

(b) *Data for determinations.* (1) Except as provided in paragraph (b)(2) of this section, determinations under this subpart requiring the submission of financial or school population data must be made on the basis of final data for the second fiscal year preceding the fiscal year for which the determination is made if substantially the same program was then in effect.

(2)(i) If the Secretary determines that the State has substantially revised its State aid program, the Secretary may certify that program for any fiscal year only if—

(A) The Secretary determines, on the basis of projected data, that the State's program will meet the disparity standard described in § 222.162 for the fiscal year for which the determination is made; and

(B) The State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met that standard for the fiscal year for which the determination is made, the State will pay to each affected LEA the amount by which the State reduced State aid to the LEA.

(ii) Data projections submitted by a State must set forth the assumptions upon which the data projections are founded, be accompanied by an assurance as to their accuracy, and be adjusted by actual data for the fiscal year of determination that must be submitted to the Secretary as soon as these data are available.

(c) *Definitions.* The following definitions apply to this subpart:

(1) *State aid* means any contribution, no repayment for which is expected, made by a State to or on behalf of LEAs within the State for current expenditures for the provision of free public education.

(2) *Equalize expenditures* means to meet the standard set forth in § 222.162.

(3) *Current expenditures* means the total charges incurred for the benefit of the school year in an elementary (including pre-kindergarten) or secondary school program. "Current expenditures" does not include—

(i) Expenditures for capital outlay;

(ii) Expenditures for debt service for capital outlay;

(iii) Expenditures from State sources for special cost differentials of the type specified in § 222.162(c)(2);

(iv) Expenditures of revenues from local or intermediate sources that are designated for special cost differentials of the type specified in § 222.162(c)(2);

(v) Expenditures of funds received by the agency under sections 8002 and 8003(b) (including hold harmless payments calculated under section

8003(e)) or under Pub. L. 81–874 that are not taken into consideration under the State aid program and exceed the proportion of those funds that the State would be allowed to take into consideration under § 222.163; or

(vi) Expenditures of funds received by the agency under Pub. L. 81–874 that were not taken into consideration under the State aid program and exceed the proportion of funds the State was permitted to take into consideration under that law.

(4) *Revenue* means an addition to assets that does not increase any liability, does not represent the recovery of an expenditure, does not represent the cancellation of certain liabilities without a corresponding increase in other liabilities or a decrease in assets, and does not represent a contribution of fund capital in food service or pupil activity funds. Furthermore, the term "revenue" includes only revenue for current expenditures.

(Authority: 20 U.S.C. 7709)

§ 222.162 What disparity standard must a State meet in order to be certified and how are disparities in current expenditures or revenues per pupil measured?

(a) *Percentage disparity limitation.* The Secretary will consider that a State aid program equalizes expenditures if the disparity in the amount of current expenditures or revenue per pupil for free public education among LEAs in the State is no more than 25 percent for fiscal years 1995, 1996, and 1997; and no more than 20 percent for fiscal years 1998 and 1999. In determining the disparity percentage, the Secretary shall disregard LEAs with per pupil expenditures or revenues above the 95th percentile or below the 5th percentile of those expenditures or revenues in the State. The method for calculating the percentage of disparity in a State is set forth in the appendix to this subpart.

(b)(1) *Weighted average disparity for different grade level groups.* If a State requests it, the Secretary will make separate disparity computations for different groups of LEAs in the State that have similar grade levels of instruction.

(2) In those cases, the weighted average disparity for all groups, based on the proportionate number of pupils in each group, may not be more than the percentage provided in paragraph (a) of this section. The method for calculating the weighted average disparity percentage is set out in the appendix to this subpart.

(c) *Per pupil figure computations.* In calculating the current expenditures or revenue disparities under this section, computations of per pupil figures are made on one of the following bases:

(1) The per pupil amount of current expenditures or revenue for an LEA is computed on the basis of the total number of pupils receiving free public education in the schools of the agency. The total number of pupils is determined in accordance with whatever standard measurement of pupil count is used in the State.

(2) If a State aid program uses "weighted pupil," "classroom," "instructional unit," or another designated measure of need in determining allocations of State aid to take account of special cost differentials, the computation of per pupil revenue or current expenditures may be made on those bases. The two allowable categories of special cost differentials are—

(i) Those associated with pupils having special educational needs, such as children with disabilities, economically disadvantaged children, non-English speaking children, and gifted and talented children; and

(ii) Those associated with particular types of LEAs such as those affected by geographical isolation, sparsity or density of population, high cost of living, or special socioeconomic characteristics within the area served by an LEA.

(d) *Revenues and current expenditures included in determinations.* All revenues or current expenditures must be included for each LEA in the State in determining the percentage of disparity under paragraph (a) of this section.

(Authority: 20 U.S.C. 7709)

§ 222.163 What proportion of Impact Aid funds may a State take into consideration upon certification?

(a) *Provision of law.* Section 8009(d)(1)(B) provides that, upon certification by the Secretary, in allocating State aid a State may consider as local resources funds received under sections 8002 and 8003(b) (including hold harmless payments calculated under section 8003(e)) and Pub. L. 81–874 only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues. Determinations of proportionality must be made on a case-by-case basis for each LEA affected and not on the basis of a general rule to be applied throughout a State.

(Authority: 20 U.S.C. 7709)

(b) *Computation of proportion.* (1) In computing the share that local tax revenues covered under a State equalization program are of total local tax revenues for an LEA with respect to a program qualifying under § 222.162, the proportion is obtained by dividing the amount of local tax revenues covered under the equalization program by the total local tax revenues attributable to current expenditures for free public education within that LEA.

(2) In cases where there are no local tax revenues for current expenditures and the State provides all of those revenues on behalf of the LEA, the State may consider up to 100 percent of the funds received under the Act by that LEA in allocating State aid.

(Authority: 20 U.S.C. 7709(d)(1)(B))

(c) *Application of proportion to Impact Aid payments.* Except as provided in § 222.161(a)(1)(ii) and (iii), the proportion established under this section (or a lesser proportion) for any LEA receiving payments under sections 8002 and 8003(b) (including hold harmless payments calculated under section 8003(e)) and Pub. L. 81–874 may be applied by a State to actual receipts of those payments or payments under Pub. L. 81–874.

(Authority: 20 U.S.C. 7709(d)(1)(B))

§ 222.164 What procedures does the Secretary follow in making a determination under section 8009?

(a) *Initiation.* (1) A proceeding under this subpart leading to a determination by the Secretary under section 8009 may be initiated—

(i) By the State educational agency (SEA) or other appropriate agency of the State;

(ii) By an LEA; or

(iii) By the Secretary, if the Secretary has reason to believe that the State's action is in violation of section 8009.

(2) Whenever a proceeding under this subpart is initiated, the party initiating the proceeding shall give adequate notice to the State and all LEAs in the State.

(b) *Submission.* (1) A submission by a State or LEA under this section must be made in the manner requested by the Secretary and must contain the information and assurances as may be required by the Secretary in order to reach a determination under section 8009 and this subpart.

(2)(i) A State in a submission shall—

(A) Demonstrate how its State aid program comports with § 222.162; and

(B) Demonstrate for each LEA receiving funds under the Act that the proportion of those funds that will be taken into consideration comports with § 222.163.

(ii) The submission must be received by the Secretary no later than 120 calendar days before the beginning of the State's fiscal year for the year of the determination, and must include (except as provided in § 222.161(c)(2)) final second preceding fiscal year disparity data enabling the Secretary to determine whether the standard in § 222.162 has been met. The submission is considered timely if received by the Secretary on or before the filing deadline or if it bears a U.S. Postal Service postmark dated on or before the filing deadline.

(3) An LEA in a submission must demonstrate whether the State aid program comports with section 8009.

(4) Whenever a proceeding is initiated under this subpart, the Secretary may request from a State the data deemed necessary to make a determination. A failure on the part of a State to comply with that request within a reasonable period of time results in a summary determination by the Secretary that the State aid program of that State does not comport with the regulations in this subpart.

(5) Before making a determination under section 8009, the Secretary affords the State, and all LEAs in the State, an opportunity to present their views.

(c) *Determinations.* The Secretary reviews the participants' submissions and any views presented at a predetermination hearing under paragraph (b)(5) of this section, including views submitted during the post-hearing comment period. Based upon this review, the Secretary issues a written determination setting forth the reasons for the determination in sufficient detail to enable the State or LEAs to respond. The Secretary affords reasonable notice of a determination under this subpart and the opportunity for a hearing to the State or any LEA adversely affected by the determination.

(Authority: 20 U.S.C. 7709)

Note to Paragraph (b)(2) of this section: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

§ 222.165 What procedures does the Secretary follow after making a determination under section 8009?

(a) *Request for hearing.* (1) A State or LEA that is adversely affected by a determination under section 8009 and this subpart and that desires a hearing regarding that determination must submit a written request for a hearing within 30 days of receipt of the determination. The time within which a request must be filed may not be extended unless the Secretary, or the Secretary's delegatee, extends the time in writing at the time notice of the determination is given.

(2) A request for a hearing in accordance with this section must specify the issues of fact and law to be considered.

(3) If an LEA requests a hearing, it must furnish a copy of the request to the State. If a State requests a hearing, it must furnish a copy of the request to all LEAs in the State.

(b) *Right to intervene.* Any LEA or State that is adversely affected by a determination shall have the right of intervention in the hearing.

(c) *Time and place of hearing.* The hearing is held at a time and place fixed by the Secretary or the Secretary's delegatee (with due regard to the mutual convenience of the parties).

(d) *Counsel.* In all proceedings under this section, all parties may be represented by counsel.

(e) *Proceedings.* The Secretary refers the matter in controversy to an administrative law judge (ALJ) appointed under 5 U.S.C. 3105.

(f) *Filing requirements.* (1) Any written submission under this section must be filed by hand-delivery, mail, or facsimile transmission. The Secretary discourages the use of facsimile transmission for documents longer than five pages.

(2) If agreed upon by the parties, service of a document may be made upon the other party by facsimile transmission.

(3) The filing date for a written submission under this section is the date the document is—

(i) Hand-delivered;

(ii) Mailed; or

(iii) Sent by facsimile transmission, followed by a mailed hard copy.

(4) A party filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was received by the Department.

(g) *Procedural rules.* (1) If, in the opinion of the ALJ, no dispute exists as to a material fact the resolution of which would be materially assisted by oral testimony, the ALJ shall afford each party to the proceeding an opportunity to present its case—

(i) In whole or in part in writing; or

(ii) In an informal conference after affording each party sufficient notice of the issues to be considered.

(2) With respect to hearings involving a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the ALJ shall afford the following procedures to each party:

(i) Sufficient notice of the issues to be considered at the hearing.

(ii) An opportunity to make a record of the proceedings.

(iii) An opportunity to present witnesses on the party's behalf.

(iv) An opportunity to cross-examine other witnesses either orally or through written interrogatories.

(h) *Decisions.* The ALJ shall make an initial decision based upon written findings, which shall be forwarded to the Secretary. The Secretary may, by appropriate notification to the parties, determine to review it or certify it as the final decision of the Secretary without further proceedings. Written notice of the initial decision shall be sent to all parties. In any case in which the Secretary modifies or reverses the initial decision, a notice of that action shall be accompanied by a written statement of the grounds for the reversal or modification. Notice of the final decision of the Secretary is served upon all parties to the hearing, the hearing panel and any LEA that may be adversely affected.

(Authority: 20 U.S.C. 7709 and 7711)

(i) *Corrective Action.* (1) Within 30 days after a determination by the Secretary that a State has been in violation of section 8009 unless the determination is timely appealed by the State, the State shall provide satisfactory written assurances that it will undertake appropriate corrective action if necessary.

(2) A State found by the Secretary to have been in violation of section 8009 following a hearing shall provide, within 30 days after disposal of the hearing request (such as by a final decision issued under this subpart or withdrawal of the hearing request), satisfactory assurances that it is taking corrective action, if necessary.

(3) At any time during a hearing under this subpart, a State may provide the Secretary appropriate assurances that it will undertake corrective action if necessary. The Secretary or the ALJ, as applicable, may stay the proceedings pending completion of corrective action.

(Authority: 20 U.S.C. 7709)

§§ 222.166–222.169 [Reserved]

Appendix to Subpart K

Determinations Under Section 8009 of the Act—Methods of Calculations for Treatment of Impact Aid Payments Under State Equalization Programs

The following paragraphs describe the methods for making certain calculations in conjunction with determinations made under the regulations in this subpart. Except as otherwise provided in the regulations, these methods are the only methods that may be used in making these calculations.

1. *Determinations of disparity standard compliance under § 222.162(b)(1).*

(a) The determinations of disparity in current expenditures or revenue per pupil are made by—

(i) Ranking all LEAs having similar grade levels within the State on the basis of current expenditures or revenue per pupil for the second preceding fiscal year before the year of determination;

(ii) Identifying those LEAs in each ranking that fall at the 95th and 5th percentiles of the total number of pupils in attendance in the schools of those LEAs; and

(iii) Subtracting the lower current expenditure or revenue per pupil figure from the higher for those agencies identified in paragraph (ii) and dividing the difference by the lower figure.

Example: In State X, after ranking all LEAs organized on a grade 9–12 basis in order of the expenditures per pupil for the fiscal year in question, it is ascertained by counting the number of pupils in attendance in those agencies in ascending order of expenditure that the 5th percentile of student population is reached at LEA A with a per pupil expenditure of $820, and that the 95th percentile of student population is reached at

LEA B with a per pupil expenditure of $1,000. The percentage disparity between the 95th and 5th percentile LEAs is 22 percent ($1,000–$820 = $180/$820). The program would meet the disparity standard for fiscal years before fiscal year 1998 but would not for subsequent years.

(b) In cases under § 222.162(b), where separate computations are made for different groups of LEAs, the disparity percentage for each group is obtained in the manner described in paragraph (a) above. Then the weighted average disparity percentage for the State as a whole is determined by—

(i) Multiplying the disparity percentage for each group by the total number of pupils receiving free public education in the schools in that group;

(ii) Summing the figures obtained in paragraph (b)(i); and

(iii) Dividing the sum obtained in paragraph (b)(ii) by the total number of pupils for all the groups.

EXAMPLE

Group 1 (grades 1–6), 80,000 pupils×18.00%=	14,400
Group 2 (grades 7–12), 100,000 pupils×22.00%=	22,000
Group 3 (grades 1–12), 20,000 pupils×35.00%=	7,000
Total 200,000 pupils	43,400
43,400/200,000=21.70% Disparity	

2. *Determinations under § 222.163(b) as to maximum proportion of payments under the Act that may be taken into consideration by a State under an equalization program.* The proportion that local tax revenues covered under a State equalization program are of total local tax revenues for a particular LEA shall be obtained by dividing: (a) The amount of local tax revenues covered under the equalization program by (b) the total local tax revenues attributable to current expenditures within the LEA. Local revenues that can be excluded from the proportion computation are those received from local non-tax sources such as interest, bake sales, gifts, donations, and in-kind contributions.

Examples

Example 1. State A has an equalization program under which each LEA is guaranteed $900 per pupil less the LEA contribution based on a uniform tax levy. The LEA contribution from the uniform tax levy is considered under the equalization program. LEA X contributes the proceeds of the uniform tax levy, $700 per pupil, and the State contributes the $200 difference. No other local tax revenues are applied to current expenditures for education by LEA X. The percentage of funds under the Act that may be taken into consideration by State A for LEA X is 100 percent ($700/$700). If LEA X receives $100 per pupil in payments under the Act, $100 per pupil may be taken into consideration by State A in determining LEA X's relative financial resources and needs under the program. LEA X is regarded as contributing $800 and State A would now contribute the $100 difference.

Example 2. The initial facts are the same as in Example 1, except that LEA X, under a permissible additional levy outside the equalization program, raises an additional $100 per pupil not covered under the equalization program. The permissible levy is not included in local tax revenues covered under the equalization program but it is included in total local tax revenues. The percentage of payments under the Act that may be taken into consideration is 87.5 percent ($700/$800). If LEA X receives $100 per pupil in payments under the Act, $87.50 per pupil may be taken into consideration. LEA X is now regarded as contributing $787.50 per pupil under the program and State A would now contribute $112.50 per pupil as the difference.

Example 3. State B has an equalization program under which each LEA is guaranteed $900 per pupil for contributing the equivalent of a two mill tax levy. LEA X contributes $700 per pupil from a two mill tax levy and an additional $500 per pupil from local interest, bake sales, in-kind contributions, and other non-tax local sources. The percentage of funds under the Act that may be taken into consideration by State A for LEA X is 100 percent ($700/$700). The local revenue received from interest, bake sales, in-kind contributions and other non-tax local revenues are excluded from the computation since they are from non-tax sources. If LEA X receives $100 per pupil in payments under the Act, $100 per pupil may be taken into consideration by State A in determining LEA X's relative financial resources and needs under the program. LEA X is regarded as contributing $800 and State A would now contribute the $100 difference.

Example 4. State C has an equalization program in which each participating LEA is guaranteed a certain per pupil revenue at various levels of tax rates. For an eight mill rate the guarantee is $500, for nine mills $550, for 10 mills $600. LEA X levies a 10 mill rate and realizes $300 per pupil. Furthermore, it levies an additional 10 mills under a local leeway option realizing another $300 per pupil. The $300 proceeds of the local leeway option are not included in local tax revenues covered under the equalization program, but they are included in total local tax revenues. The percentage of payments under the Act that may be taken into consideration is 50 percent ($300/$600). If LEA X receives $100 per pupil in payments under the Act, $50 per pupil may be taken into consideration. LEA X may be regarded as contributing $350 per pupil under the program and State B would now contribute $250 as the difference.

Example 5. The initial facts are the same as in Example 4, except that LEA Y in State C, while taxing at the same 10 mill rate for both the equalization program and leeway allowance as LEA X, realizes $550 per pupil for each tax. As with LEA X, the percentage of payments under the Act that may be taken into consideration for LEA Y is 50 percent (550/1100). If LEA Y receives $150 per pupil in payments under the Act, then up to $75 per pupil normally could be taken into consideration. However, since LEA Y would have received only $50 per pupil in State aid, only $50 of the allowable $75 could be taken into consideration. Thus, LEA Z may be regarded as contributing $600 per pupil under the program and State B would not contribute any State aid.

[FR Doc. 95–24216 Filed 9–28–95; 8:45 am]
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federal register

Friday
September 29, 1995

Part XIII

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 91

Consolidated Submission for Community Planning and Development Programs; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 91

[Docket No. FR 3611–F–11]

Consolidated Submission for Community Planning and Development Programs

AGENCY: Office of the Secretary, HUD.
ACTION: Final rule.

SUMMARY: As part of HUD's efforts to streamline the requirements for its formula grant programs, the Department's regulations consolidate into a single submission the planning and application aspects of the Department's Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), HOME Investment Partnerships (HOME), and Housing Opportunities for Persons with AIDS (HOPWA) programs. This final rule amends the Department's consolidated plan regulations to state that the Secretary, upon a finding of good cause, may waive these regulatory provisions.

EFFECTIVE DATE: October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph F. Smith, Director, Office of Executive Services, Office of Community Planning and Development, 451 Seventh Street, SW., Washington DC 20410–7000, telephone (202) 708–1283 (voice) or (202) 708–2565 (TDD). (These are not toll-free numbers.) Copies of this amendment will be made available on tape or large print for those with impaired vision that request them. They may be obtained at the above address.

SUPPLEMENTARY INFORMATION: The Department's regulations at 24 CFR part 91 consolidate into a single submission the planning and application aspects of the Department's Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), HOME Investment Partnerships (HOME), and Housing Opportunities for Persons with AIDS (HOPWA) programs. This final rule amends the Department's consolidated plan regulations to state that the Secretary, upon a finding of good cause, may waive non-statutory provisions of part 91.

The Department, in a final rule published on January 5, 1995 (60 FR 1878), completely revised part 91 to establish the consolidated plan requirements. The January 5, 1995 rule marked a major Departmental effort to consolidate and streamline the submission requirements for its formula grant programs. Prior to publication of the January 5, 1995 rule, § 91.99 stated that the Secretary has the authority to waive non-statutory provisions of part 91. The January 5, 1995 did not contain a corresponding provision. This final rule amends part 91 by setting forth the Secretary's waiver authority in a new § 91.600.

Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. However, part 10 provides that prior public procedure will be omitted if the Department determines that it is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1).

In this case, the Department finds that it is unnecessary to provide for prior public procedure. The Secretary of HUD has the authority to waive non-statutory provisions of the Department's regulations. This final rule merely amends the Department's consolidated plan requirements to include a provision stating that the Secretary may waive any non-statutory requirement of part 91.

Other Matters

Executive Order 12866

This final rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866 on Regulatory Planning and Review, issued by the President on September 30, 1993. Any changes made in this final rule as a result of that review are clearly identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) in connection with the development of the January 5, 1995 rule. The Finding of No Significant Impact remains applicable to this rule, and is available for public inspection and copying Monday through Friday, 7:30 a.m. until 5:30 p.m. in the office of the Rules Docket Clerk, Office of General Counsel, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive order 12612, Federalism, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities and there are not any unusual procedures that would need to be complied with by small entities.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have a potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs, as those policies relate to family concerns, will result from promulgation of this rule.

List of Subjects in 24 CFR Part 91

Grant programs—Indians, Homeownership, Low and moderate income housing, Public housing.

Accordingly, 24 CFR part 91 is amended as follows:

1. The authority citation for part 91 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3601–3619, 5301–5315, 11331–11388, 12701–12711, 12741–12756, and 12901–12912.

2. Section 91.600 is added to read as follows:

§ 91.600 Waiver Authority

Upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part. Each such waiver must be in writing and must be supported by documentation of the pertinent facts and grounds.

Dated: September 26, 1995.

Henry G. Cisneros,

Secretary.

[FR Doc. 95–24339 Filed 9–28–95; 8:45 am]

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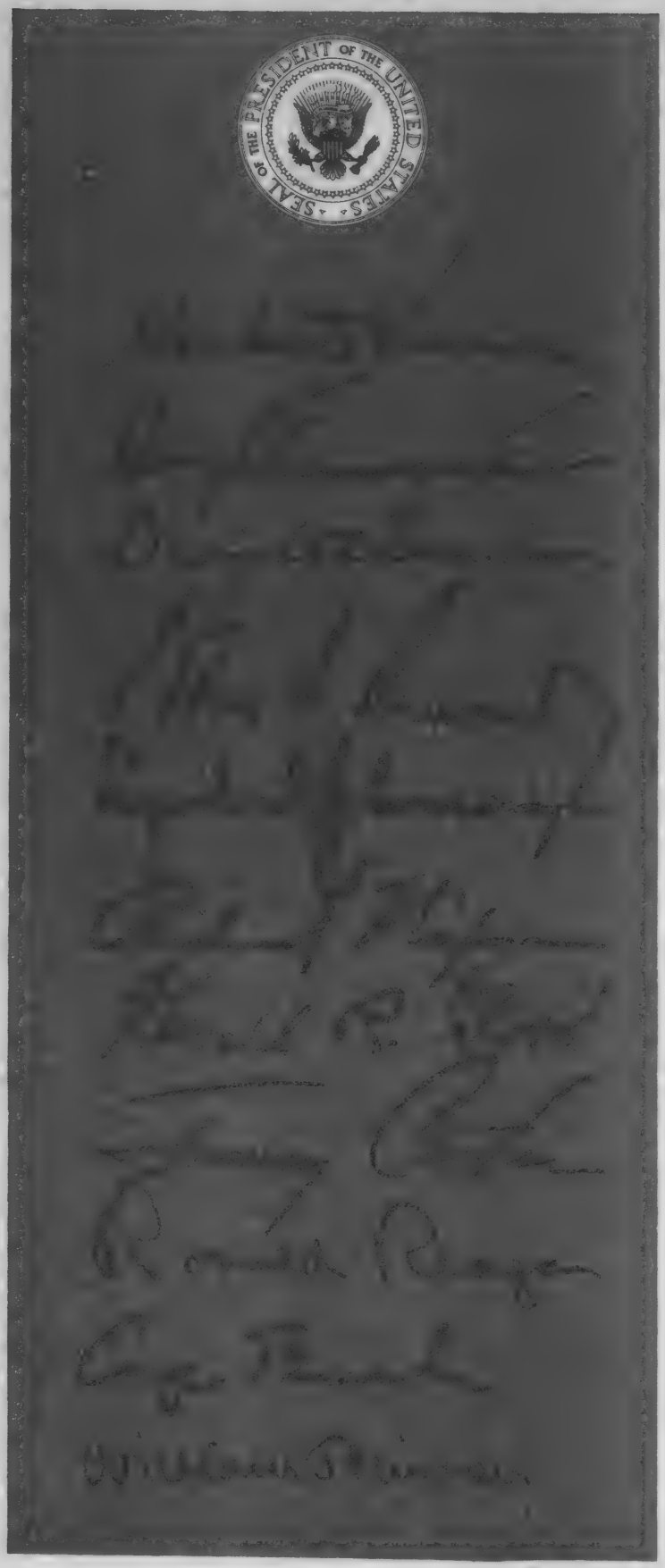

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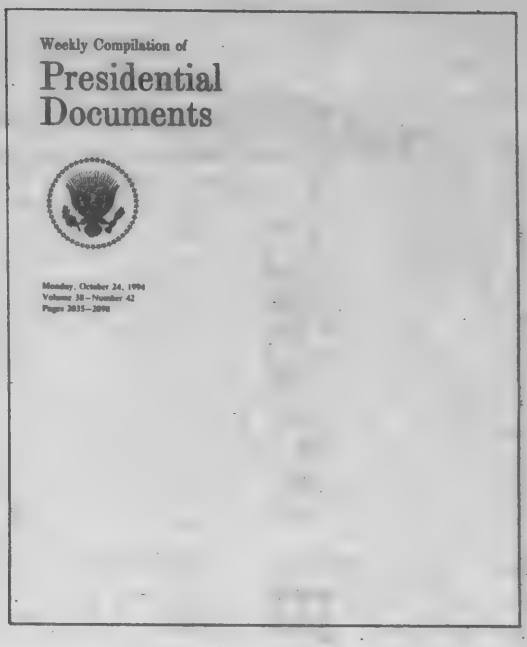

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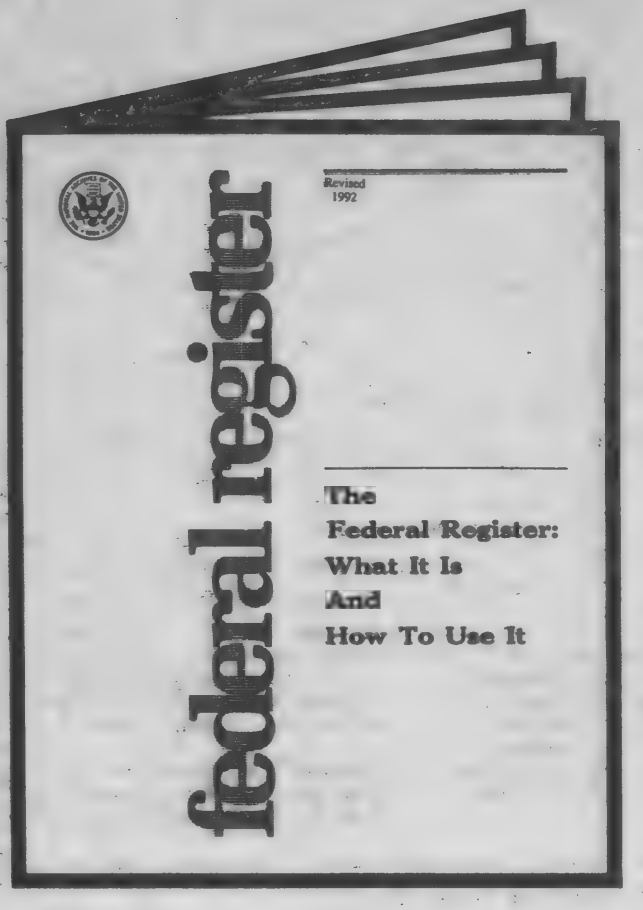

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Part XIV

Environmental Protection Agency

Final National Pollutant Discharge Elimination System Storm Water Multi-Sector General Permit for Industrial Activities; Notice

ENVIRONMENTAL PROTECITON AGENCY

[FRL–5298–3]

Final National Pollutant Discharge Elimination System Storm Water Multi-Sector General Permit for Industrial Activities

AGENCY: Environmental Protection Agency.

SUMMARY: The following provides notice for a final NPDES general permit, accompanying response to comments, and fact sheets for storm water discharges associated with industrial activity in the following Regions:

Region I—the States of Maine, Massachusetts, and New Hampshire; Federal Indian Reservations located in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; and Federal facilities located in Vermont.

Region II—the Commonwealth of Puerto Rico and Federal facilities located in Puerto Rico.

Region III—the District of Columbia and Federal facilities located in Delaware and the District of Columbia.

Region IV—the State of Florida.

Region V—no areas.

Region VI—the States of Louisiana, New Mexico, Oklahoma, and Texas, and Federal Indian Reservations located in Louisiana, New Mexico (except Navajo Reservation lands, which are handled by Region IX, and Ute Mountain Reservation lands, which are handled by Region VIII and are not being covered by this permit), Oklahoma, and Texas.

Region VII—no areas.

Region VIII—no areas.

Region IX—the State of Arizona; the Territories of Johnston Atoll, and Midway and Wake Islands; all Federal Indian Reservations located in Arizona, California, and Nevada; those portions of the Duck Valley, Fort McDermitt, and Goshute Reservations located outside Nevada; those portions of the Navajo Reservation located outside Arizona; and Federal facilities located in Arizona, Johnston Atoll, and Midway and Wake Islands.

Region X—the State of Idaho; Federal Indian Reservations located in Alaska, Idaho (except Duck Valley Reservation lands, which are handled by Region IX), Oregon (except Fort McDermitt Reservation lands, which are handled by Region IX), and Washington; and Federal facilities located in Idaho, and Washington.

The permit covers storm water discharges associated with industrial activity to waters of the United States, including discharges through large and medium municipal separate storm sewer systems, and through other municipal separate storm sewer systems. The permit is intended to cover discharges from the following types of industrial activities: lumber and wood products facilities; paper and allied products manufacturing facilities; chemical and allied products manufacturing facilities; asphalt paving and roofing materials manufacturers and lubricants; stone, clay, glass and concrete products facilities; primary metals facilities; metal mines (ore mining and dressing); coal mines; oil and gas extraction facilities; nonmetallic mines and quarries; hazardous waste treatment, storage or disposal facilities; landfills, land application sites and open dumps; automobile salvage yards; scrap and waste material processing and recycling facilities; steam electric power generating facilities; railroad transportation facilities, local and suburban transit and interurban highway passenger transportation facilities, petroleum bulk oil stations and terminals, motor freight transportation facilities and U.S. Postal Service facilities; water transportation facilities; ship or boat building/repair facilities; airports; wastewater treatment plants; food and kindred products facilities; textile mills, apparel and other fabric manufacturing facilities; furniture and fixture manufacturing facilities; printing and publishing facilities; rubber and miscellaneous plastic product and miscellaneous manufacturing facilities; leather tanning and finishing facilities; facilities that manufacture fabricated metal products, jewelry, silverware, and plated ware; facilities that manufacture transportation equipment, industrial, or commercial machinery; and facilities that manufacture electronic equipment and components, photographic and optical goods. Military installations must comply with the permit and monitoring requirements for all sectors that describe industrial activities that such installations perform. Publication of this final general permit, fact sheets, and response to comments complies with the requirements of 40 Code of Federal Regulations (CFR) 124.10.

The language of the permit is provided as an appendix to the preamble of this notice. Most conditions of the general permit are intended to apply to all permittees, unless stated otherwise. Where conditions vary by State, these differences are indicated in the appendix.

ADDRESSES: Notices of Intent (NOIs) to be covered under this permit and Notices of Termination (NOT) to terminate coverage under this permit must be sent to Storm Water Notice of Intent (4203), 401 M Street, SW., Washington, DC 20460. The complete administrative record is available through the Water Docket MC–4101, Environmental Protection Agency, 401 M Street SW, Washington DC 20460. A reasonable fee may be charged for copying. Each Regional office (see addresses listed in Part VI.G. of this fact sheet) has an index of the complete administrative record.

DATES: This general permit shall be effective on September 29, 1995. Deadlines for submittal of Notices of Intent (NOIs) are provided in Section II.A. of the general permit. Today's general permit also provides additional dates for compliance with the terms of the permits and for submitting monitoring data where required.

FOR FURTHER INFORMATION: For further information on the NPDES storm water general permit, contact the appropriate EPA Regional Office. The name, address and phone number of the EPA Regional Storm Water Coordinators are provided in Part VI.G. of the fact sheet.

Organization of Today's Permit

Today's permit covers storm water discharges from a wide variety of industrial activities. Because the conditions which affect the presence of pollutants in storm water discharges vary among industries, today's permit contains industry-specific sections that describe the storm water pollution prevention plan requirements, the numeric effluent limitation requirements and the monitoring requirements for that industry. These industry-specific sections are contained in Part XI of today's permit and are described in Part VIII of this fact sheet. There are also a number of permit requirements that apply to all industries. These requirements may be found in Parts I through X. They include the general coverage discussion, the Notice of Intent requirements and standard permit conditions. Specifically, Parts I through VII of this fact sheet describe these common requirements. The following is an outline of this fact sheet.

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I. Background

In 1972, the Federal Water Pollution Control Act (also referred to as the Clean Water Act (CWA)) was amended to provide that the discharge of any pollutant to waters of the United States from any point source is unlawful, except if the discharge is in compliance with a National Pollutant Discharge Elimination System (NPDES) permit.

For a number of reasons, EPA and authorized NPDES States have failed to issue NPDES permits for the majority of point source discharges of storm water. Recognizing this, Congress added section 402(p) to the CWA in 1987 to establish a comprehensive framework for addressing storm water discharges under the NPDES program. Section 402(p)(4) of the CWA clarifies the requirements for EPA to issue NPDES permits for storm water discharges associated with industrial activity. On November 16, 1990 (55 FR 47990 as amended at 56 FR 12100, Mar. 21, 1991; 56 FR 56554, Nov. 5, 1991; 57 FR 11412, Apr. 2, 1992; 57 FR 60447, Dec. 18, 1992), EPA published final regulations which defined the term "storm water discharge associated with industrial activity." These regulations also set forth NPDES permit application requirements for storm water discharges associated with industrial activity and storm water discharges from certain municipal separate storm sewer systems. The regulations presented three permit application options for storm water discharges associated with industrial activity. The first option was to submit an individual application consisting of Forms 1 and 2F. The second option was to become a participant in a group application. The third option was coverage under a general permit in accordance with the requirements of an issued general permit.

The promulgation of today's general permit is in response to the second of these three options. Group applications were submitted in two parts. Part 1 of the application was due by September 30, 1991, and part 2 of the application was due by October 1, 1992. In part 1 of the application, all participants were identified and information on each facility was included, such as industrial activities, significant materials exposed to storm water, and material management activities. For part 1 of the application, groups also identified sampling subgroups to submit sampling data for part 2. Over 1,200 groups with over 60,000 member facilities submitted part 1 applications. Upon review of the part 1 application, if the EPA determined that the application was an appropriate grouping of facilities with complete information provided on each participant, and a suitable sampling subgroup was proposed, the application was approved.

Part 2 of the application consisted of sampling data from each member of the sampling subgroup identified in part 1 of the application. In drafting today's general permit, EPA reviewed both parts of the applications and formulated the permit language noticed today. NPDES authorized States were provided the data from the group applications. Authorized NPDES States may propose and finalize either individual permits for each facility included in the application located in the State, or general permits, if the State has general permit authority.[1] If the State feels additional information is needed from the applicants, the State may ask each or any of the applicants for more information on their facility and/or discharge.

EPA estimates that about 100,000 facilities nationwide discharge storm water associated with industrial activity (not including oil and gas exploration and production operations) as described under phase I of the storm water program. The large number of facilities addressed by the regulatory definition of "storm water discharge associated with industrial activity" has placed a tremendous administrative burden on EPA and States with authorized NPDES programs to issue and administer permits for these discharges.

To provide a reasonable and rational approach to addressing this permitting task, the Agency has developed a strategy for issuing permits for storm water discharges associated with industrial activity. In developing this strategy, the Agency recognized that the CWA provides flexibility in the manner in which NPDES permits are issued,[2] and has used this flexibility to design a workable permitting system. In accordance with these considerations, the permitting strategy (described in more detail in 57 FR 11394) describes a four-tier set of priorities for issuing permits for these discharges:

Tier I—Baseline Permitting—One or more general permits will be developed to initially cover the majority of storm water discharges associated with industrial activity.

Tier II—Watershed Permitting—Facilities within watersheds shown to be adversely impacted by storm water discharges associated with industrial activity will be targeted for individual or watershed-specific general permits.

Tier III—Industry-Specific Permitting—Specific industry categories will be targeted for individual or industry-specific general permits.

Tier IV—Facility-Specific Permitting—A variety of factors will be used to target specific facilities for individual permits.

The general permit accompanying this fact sheet will continue Phase 1 permitting activities for storm water discharges associated with industrial activity by providing industry-specific coverage to group applicants in the following areas: the States of Arizona, Florida, Idaho, Louisiana, Maine, Massachusetts, New Hampshire, New Mexico, Oklahoma, and Texas; the District of Columbia; Johnston Atoll, and Midway and Wake Islands; the Commonwealth of Puerto Rico; Federal Indian Reservations in Alaska, Arizona, California, Connecticut, Idaho, Louisiana, Maine, Massachusetts, Nevada, New Hampshire, New Mexico, Oklahoma, Oregon, Rhode Island, Texas, Utah (only the Navajo and Goshute Reservations), Vermont, and Washington; and Federal facilities located in Arizona, the Commonwealth of Puerto Rico, the District of Columbia, Delaware, Idaho, Johnston Atoll, Midway and Wake Islands, Vermont, and Washington.[3] EPA will provide today's permit to the NPDES authorized States and encourages such States to consider this permit for their permitting needs.

II. Types of Discharges Covered

On November 16, 1990 (55 FR 47990), EPA promulgated the regulatory

[1] As of December 1993, 39 of the 40 NPDES authorized State permitting programs had the authority to issue general permits.

[2] The court in *NRDC* v. *Train*, 396 F.Supp. 1393 (D.D.C. 1975) *aff'd*, *NRDC* v. *Costle*, 568 F.2d 1369 (D.C.Cir. 1977), has acknowledged the administrative burden placed on the Agency by requiring permits for a large number of storm water discharges. The courts have recognized EPA's discretion to use certain administrative devices, such as area permits or general permits, to help manage its workload. In addition, the courts have recognized flexibility in the type of permit conditions that can be established, including the use of requirements for best management practices.

[3] In 5 of the 40 States that are authorized to issue NPDES permits for municipal and industrial sources, EPA issues permits for discharges from Federal facilities. EPA also retains authority to issue permits on Federal Indian Reservations. However, this fact sheet only addresses general permits as indicated above. Where EPA is the permit issuing authority for other storm water discharges, either individual permits or a different general permit will be issued.

definition of "storm water discharge associated with industrial activity" which addresses point source discharges of storm water from eleven major categories of industrial activities. Industrial activities from all of these categories with the exception of construction activities participated in the group application process. The information contained in the group applications indicates that type and amount of pollutants discharged in storm water varies from industrial activity to industrial activity because of the variety of potential pollutant sources present in different industrial activities, as well as the variety of pollution prevention measures commonly practiced by each of the regulated industries. To facilitate the process of developing permit conditions for each of the 1200 group applications submitted, EPA classified groups into 29 industrial sectors where the nature of industrial activity, type of materials handled and material management practices employed were sufficiently similar for the purposes of developing permit conditions. Each of the industrial sectors were represented by one or more groups which participated in the group application process. Table 1 lists each of the industrial activities covered by today's permit, and the corresponding sections of today's fact sheet and permit which discuss the specific requirements for that industry. EPA has further divided some of the 29 sectors into subsectors in order to establish more specific and appropriate permit conditions, including best management practices and monitoring requirements.

Coverage under today's general permit is available to storm water discharges from industrial activities represented by the group application process. However, coverage under this permit is not restricted to participants in the group application process. To limit coverage under this general permit only to those who participated in the Group application process would not be appropriate for administrative, environmental, and national consistency reasons. The administrative burden for EPA to develop separate general permits for non-group members would be excessive, unnecessary, and wasteful of tax dollars. EPA would also need to use the same information in the development of such permits. The permits would be essentially the same. The time spent in this process would leave many facilities unregulated for some number of additional months. This would not address the environmental concerns of the Clean Water Act. Likewise, group members are not precluded from seeking coverage under other available storm water permits such as EPA's "baseline" general permits for Storm Water Discharges Associated with Industrial Activity, (57 FR 41175 and 57 FR 44412). Group members must consider, however, that the deadlines for preparing and implementing the pollution prevention plan required under the baseline permit have already expired for existing facilities. Therefore, group members that seek coverage under the baseline general permit must have a pollution prevention plan developed and implemented prior to NOI submittal.

Unlike the baseline general permits, today's permit does not exclude all storm water discharges subject to effluent limitation guidelines. Four types of storm water discharges subject to effluent limitation guidelines may be covered under today's permit if they are not already subject to an existing or expired NPDES permit. These discharges include contaminated storm water runoff from phosphate fertilizer manufacturing facilities, runoff associated with asphalt paving or roofing emulsion production, runoff from material storage piles at cement manufacturing facilities and coal pile runoff at steam electric generating facilities. The permit does not, however, authorize all storm water discharges subject to effluent guidelines. Storm water discharges subject to effluent guidelines under 40 CFR part 436 or for mine drainage under 40 CFR part 440 are not covered under today's permit nor are discharges subject to effluent guidelines for acid or alkaline mine drainage under 40 CFR part 434.

TABLE 1.—INDUSTRIAL ACTIVITIES COVERED BY TODAY'S GENERAL PERMIT

Industrial activity	Fact sheet section describing discharges covered	Permit section describing discharges covered
Timber Products Facilities	VIII.A	XI.A.
Paper and Allied Products Manufacturing Facilities	VIII.B	XI.B.
Chemical and Allied Products Manufacturing Facilities	VIII.C	XI.C.
Asphalt Paving and Roofing Materials Manufacturers and Lubricant Manufacturers	VIII.D	XI.D.
Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing Facilities	VIII.E	XI.E.
Primary Metals Facilities	VIII.F	XI.F.
Metal Mining (Ore Mining and Dressing) Facilities	VIII.G	XI.G.
Coal Mines and Coal Mining-Related Facilities	VIII.H	XI.H.
Oil and Gas Extraction Facilities	VIII.I	XI.I.
Mineral Mining and Processing Facilities	VIII.J	XI.J.
Hazardous Waste Treatment, Storage, or Disposal Facilities	VIII.K	XI.K.
Landfills and Land Application Sites	VIII.L	XI.L.
Automobile Salvage Yards	VIII.M	XI.M.
Scrap and Waste Recycling Facilities	VIII.N	XI.N.
Steam Electric Power Generating Facilities, Including Coal Handling Areas	VIII.O	XI.O.
Vehicle Maintenance or Equipment Cleaning Areas at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and the United States Postal Service.	VIII.P	XI.P.
Vehicle Maintenance Areas and/or Equipment Cleaning Operations at Water Transportation Facilities.	VIII.Q	XI.Q.
Ship and Boat Building or Repairing Yards	VIII.R	XI.R.
Vehicle Maintenance Areas, Equipment Cleaning Areas, or Deicing Area located at Air Transportation Facilities.	VIII.S	XI.S.
Treatment Works	VIII.T	XI.T.
Food and Kindred Products Facilities	VIII.U	XI.U.
Textile Mills, Apparel, and Other Fabric Product Manufacturing Facilities	VIII.V	XI.V.
Wood and Metal Furniture and Fixture Manufacturing Facilities	VIII.W	XI.W.

TABLE 1.—INDUSTRIAL ACTIVITIES COVERED BY TODAY'S GENERAL PERMIT—Continued

Industrial activity	Fact sheet section describing discharges covered	Permit section describing discharges covered
Printing and Publishing Facilities	VIII.X	XI.X.
Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries	VIII.Y	XI.Y.
Leather Tanning and Finishing Facilities	VIII.Z	XI.Z.
Fabricated Metal Products Industry	VIII.AA	XI.AA.
Facilities That Manufacture Transportation Equipment, Industrial, or Commercial Machinery.	VIII.AB	XI.AB.
Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods.	VIII.AC	XI.AC.

A. Limitations on Coverage

Because of the broad scope of today's permit, most industrial activities currently regulated under the storm water program could be covered by the permit. There are, however, several types of storm water discharges which are not covered under today's permit. Storm water discharges subject to an existing NPDES permit are not covered under today's permit, except facilities which are currently subject to the baseline general permit. EPA believes that in most cases these discharges are more appropriately covered under terms and conditions of their existing permit. These discharges may be covered under today's permit only when the existing permit has expired and only when the expired permit did not contain numeric effluent limitations more stringent than those in today's permit. Owners/operators of facilities currently covered under the baseline general permit who wish to obtain coverage under today's general permit must submit a Notice of Termination (NOT) to terminate coverage under the baseline general permit with a Notice of Intent (NOI) to be covered under today's permit. Storm water discharges that were subject to an NPDES permit that was terminated by the permitting authority are not eligible for coverage under today's permit. Construction activities are not eligible for coverage under this permit. Storm water discharges that were subject to a permit that was terminated as a result of the permittee's request are eligible for coverage under today's permit. Storm water discharges from industrial activities that are not addressed in the appropriate section of Part XI. (see Table 1) of the permit are not eligible for coverage under this permit. These types of industrial activities were not represented in the group application process. Therefore, EPA has no additional information with which to develop permit requirements beyond those developed for the baseline general permit.

(1) Storm Water Discharges Subject to New Source Performance Standards. Section 306 of the Clean Water Act requires EPA to develop performance standards for all new sources described in that section. These standards apply to all facilities which go into operation after the date the standards are promulgated. Section 511(c) of the Clean Water Act requires the Agency to comply with the National Environmental Policy Act prior to issuance of a permit under the authority of Section 402 of the CWA to facilities defined as a new source under Section 306.

Facilities which are subject to the performance standards for new sources as described in this section of the fact sheet must provide EPA with an Environmental Information Document pursuant to 40 CFR 6.101 prior to seeking coverage under this permit. This information shall be used by the Agency to evaluate the facility under the requirements of the National Environmental Policy Act (NEPA) in an Environmental Review. The Agency will make a final decision regarding the direct or indirect impact of the discharge. The Agency will follow all administrative procedures required in this process. The permittee must obtain a copy of the Agency's final finding prior to the submittal of a Notice of Intent to be covered by this general permit. In order to maintain eligibility, the permittee must implement any mitigation required of the facility as a result of the NEPA review process. Failure to implement mitigation measures upon which the Agency's NEPA finding is based is grounds for termination of permit coverage. In this way, EPA has established a procedure which allows for the appropriate review procedures to be completed by this Agency prior to the issuance of a permit under Section 402 of the CWA to an operator of a facility subject to the new source performance standards of Section 306 of the CWA. EPA believes that it has fulfilled its requirements under NEPA for this federal action under Section 402 of the CWA.

(2) Historic Preservation. The National Historic Preservation Act (NHPA) prohibits Federal actions that would affect a property that either is listed on, or is eligible for listing, on the National Historic Register. EPA therefore cannot issue NPDES permits to discharges that will affect historic properties unless measures will be taken such as under a written agreement between the applicant and the State Historic Preservation Officer (SHPO) that outlines all measures to be undertaken by the applicant to mitigate or prevent adverse effects to the historic property. Therefore, under today's permit a storm water discharge may be covered only if the discharge will not affect a historic property that is listed or is eligible to be listed in the National Historic Register, or the operator has obtained and is in compliance with a written agreement signed by the State Historic Preservation Officer (SHPO) that outlines measures to be taken to mitigate or prevent adverse affects to the historic site.

(3) Endangered Species. The Endangered Species Act (ESA) of 1973 requires Federal Agencies such as EPA to ensure, in consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (the Services) that any actions authorized, funded, or carried out by the Agency (e.g., EPA issued NPDES permits authorizing discharges to waters of the United States) are not likely to jeopardize the continued existence of any federally-listed endangered or threatened species or adversely modify or destroy critical habitat of such species (see 16 U.S.C. 1536(a)(2), 50 CFR 402 and 40 CFR 122.49(c)). EPA completed a formal consultation with the Services on the action of issuing this permit on April 5, 1995. The terms and conditions of this permit reflect the results of that consultation.

Accordingly, storm water discharges that are likely to adversely affect species identified in Addendum H of the permit are not authorized permit coverage

under this storm water multi-sector industrial general permit. Permittees are also not authorized permit coverage if the BMPs they plan to construct and operate as a part of the required storm water pollution prevention plan are likely to adversely affect a species identified in Addendum H.

To be eligible for coverage under the multi-sector storm water permit, applicants are required to review the list of species and their locations which are contained in Addendum H of this permit and which are described in the instructions for completing the application requirements under this permit. If an applicant determines that none of the species identified in the addendum are found in the county in which the facility is located, then there is no likelihood of an adverse affect and they are eligible for permit coverage. Applicants must then certify that their discharges, and the construction of storm water BMPs, are not likely to adversely affect species and will be granted multi-sector storm water permit coverage 48 hours after the date of the postmark on the envelope used to mail in the NOI form.

If species identified in Addendum H are found to be located in the same county as the facility seeking storm water permit coverage, then the applicant next must determine whether the species are in proximity to the storm water discharges at the facility, or any BMPs to be constructed to control storm water runoff. A species is in proximity to a storm water discharge when the species is located in the path or down gradient area through which or over which point source storm water flows from industrial activities to the point of discharge into the receiving water, and once discharged into the receiving water, in the immediate vicinity of, or nearby, the discharge point. A species is also in proximity if a species is located in the area of a site where storm water BMPs are planned to be constructed. If an applicant determines there are no species in proximity to the storm water discharge, or the BMPs to be constructed, then there is no likelihood of adversely affecting the species and the applicant is eligible for permit coverage.

If species are in proximity to the storm water discharges or areas of BMP construction, as long as they have been considered as part of a previous ESA authorization of the applicant's activity, and the environmental baseline established in that authorization is unchanged, the applicant may be covered under the permit. For example, an applicant's activity may have been authorized as part of a section 7 consultation under ESA, covered under a section 10 permit, or have received a clearance letter. The environmental baseline generally includes the past and present impacts of all federal, state and private actions that were contemporaneous to an ESA authorization. Therefore, if a permit applicant has received previous authorization and nothing has changed or been added to the environmental baseline established in the previous authorization, then coverage under this permit will be provided.

In the absence of such previous authorization, if species identified in Addendum H are in proximity to the discharges, or the construction areas for the BMPs, then the applicant must determine whether there is any likely adverse effect upon the species. This is done by the applicant conducting a further examination or investigation, or an alternative procedure, described in the instructions in Addendum H of the permit. If the applicant determines there is no likely adverse effect upon the species, then the applicant is eligible for permit coverage. If the applicant determines that there likely is, or will likely be an adverse effect, then the applicant is not eligible for multi-sector storm water permit coverage.

All dischargers applying for coverage under this permit must provide in the application information on the Notice of Intent form: (1) a determination as to whether there are any species identified in Addendum H in proximity to the storm water discharges and BMPs construction areas, and (2) a certification that their storm water discharges and the construction of BMPs to control storm water are not likely to adversely affect species identified in Addendum H, or are otherwise eligible for coverage due to a previous authorization under the ESA. Coverage is contingent upon the applicant's providing truthful information concerning certification and abiding by any conditions imposed by the permit.

Dischargers who are not able to determine that there will be no likely adverse affect to species or habitats and cannot sign the certification to gain coverage under this multi-sector storm water general permit, must apply to EPA for an individual NPDES storm water permit. As appropriate, EPA will conduct ESA § 7 consultation when issuing such individual permits.

Regardless of the above conditions, EPA may require that a permittee apply for an individual NPDES permit on the basis of possible adverse effects on species or critical habitats. Where there are concerns that coverage for a particular discharger is not sufficiently protective of listed species, the Services (as well as any other interested parties) may petition EPA to require that the discharger obtain an individual NPDES permit and conduct an individual section 7 consultation as appropriate.

In addition, the Assistant Administrator for Fisheries for the National Oceanic and Atmospheric Administration, or his/her authorized representative, or the U.S. Fisheries and Wildlife Service (as well as any other interested parties) may petition EPA to require that a permittee obtain an individual NPDES permit. The permittee is also required to make the storm water pollution prevention plan, annual site compliance inspection report, or other information available upon request to the Assistant Administrator for Fisheries for the National Oceanic and Atmospheric Administration, or his/her authorized representative, or the U.S. Fisheries and Wildlife Service Regional Director, or his/her authorized representative.

These mechanisms allow for the broadest and most efficient coverage for the permittee while still providing for the most efficient protection of endangered species. It significantly reduces the number of dischargers that must be considered individually and therefore allows the Agency and the Services to focus their resources on those discharges that are indeed likely to adversely affect water-dependent listed species. Straightforward mechanisms such as these allow applicants with expedient permit coverage, and eliminates "permit limbo" for the greatest number of permitted discharges. At the same time it is more protective of endangered species because it allows both agencies to focus on the real problems, and thus, provide endangered species protection in a more expeditious manner.

(4) Storm Water Discharges Associated with Inactive Mines, Landfills, Oil and Gas Operations that Are Located on Federal Lands. The permit does not cover storm water discharges associated with industrial activity from inactive mines, inactive landfills, and inactive oil and gas operations that are located on Federal lands, unless an operator of the industrial activity can be identified. These discharges are not eligible for coverage under this permit because they would more appropriately be covered by the permit currently under development by EPA intended specifically to cover these types of discharges.

III. Pollutants in Storm Water Discharges Associated with Industrial Activities in General

The volume and quality of storm water discharges associated with industrial activity will depend on a number of factors, including the industrial activities occurring at the facility, the nature of precipitation, and the degree of surface imperviousness. A discussion of these factors is provided in the proposed general permit (see FR 58 61146 Nov. 19, 1993).

IV. Summary of Options for Controlling Pollutants

Pollutants in storm water discharges from industrial plants may be reduced using the following methods: eliminating pollution sources, implementing Best Management Practices to prevent pollution, using traditional storm water management practices, and providing end-of-pipe treatment. Each of these is discussed in the proposed general permit (see 58 FR 61146, Nov. 19, 1993).

V. The Federal/Municipal Partnership: The Role of Municipal Operators of Large and Medium Municipal Separate Storm Sewer Systems

A key issue in developing a workable regulatory program for controlling pollutants in storm water discharges associated with industrial activity is the proper use and coordination of limited regulatory resources. This is especially important when addressing the appropriate role of municipal operators of large and medium municipal separate storm sewer systems in the control of pollutants in storm water associated with industrial activity which discharge through municipal separate storm sewer systems. The proposed general permit discussed several key policy factors (see 58 FR 61146).

VI. Summary of Common Permit Conditions

The following section describes the permit conditions common to discharges from all the industrial activities covered by today's permit. These conditions were proposed on November 19, 1993 (58 FR 61146), and reflect the baseline permit requirements established for most regulated industries in EPA's General Permits for Storm Water Discharges Associated with Industrial Activity [57 FR 41344–41356 September 9, 1992, and 57 FR 44438–44470 September 25, 1992]. Permit requirements which vary from industry to industry are discussed in Part VIII of this fact sheet.

A. Notification Requirements

General permits for storm water discharges associated with industrial activity require the submittal of an NOI prior to the authorization of such discharges (see 40 CFR 122.28(b)(2)(i), April 2, 1992 [57 FR 11394]). Consistent with these regulatory requirements, today's general permit establishes NOI requirements that operate in addition to the part 1 and part 2 group application requirements. To be covered under this permit, facilities, including members of an approved group, must submit an NOI and other required information within 90 days of the effective date of this permit. The NOI form is found in Addendum B.

1. Contents of NOIs

a. The operator's name, address, telephone number, and status as Federal, State, private, public, or other entity.

b. Street address of the facility for which the notification is submitted. Where a street address for the site is not available, the location can be described in terms of the latitude and longitude of the facility to the nearest 15 seconds, or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site.

c. An indication of whether the facility is located on Federal Indian Reservations.

d. Up to four 4-digit Standard Industrial Classification (SIC) codes that best represent the principal products or activities provided by the facility. For hazardous waste treatment, storage, or disposal facilities, land disposal facilities that receive or have received any industrial waste, steam electric power generating facilities, or treatment works treating domestic sewage, a 2-character code must be provided.

e. The permit number of any NPDES permit for any discharge (including non-storm water discharges) from the site that is currently authorized by an NPDES permit.

f. The name of the receiving water(s), or if the discharge is through a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the receiving water(s) for the discharge through the municipal separate storm sewer.

g. The analytical monitoring status of the facility (monitoring or not).

h. For a co-permittee, if a storm water general permit number has been issued, it should be included.

i. A certification that the operator of the facility has read and understands the eligibility requirements for the permit and that the operator believes the facility to be in compliance with those requirements.

j. Identify type of permit requested (either baseline general, multi-sector, or construction); longitude and latitude; indication of presence of endangered species; indication of historic preservation agreement; signed certification stating compliance with the National Historic Preservation Act, Endangered Species Act, and the new source performance standard requirements.

k. For any facility that begins to discharge storm water associated with industrial activity after [insert date 270 days after permit finalization], a certification that a storm water pollution prevention plan has been prepared for the facility in accordance with Part IV of this permit. (A copy of the plan should not be included with the NOI submission.)

An NOI form is provided in Addendum B. The NOI must be signed in accordance with the signatory requirements of 40 CFR 122.22. A complete description of these signatory requirements is provided in the instructions accompanying the NOI. Completed NOI forms must be submitted to the Storm Water Notice of Intent (4203), 401 M Street SW., Washington, DC 20460.

2. Deadlines

Except for the special circumstances discussed below, dischargers who intend to obtain coverage under this permit for a storm water discharge from an industrial activity that is in existence prior to the date 90 days after permit issuance must submit an NOI on or before the date 90 days after permit issuance, and facilities that begin industrial activities after the date 90 days after permit issuance are required to submit an NOI at least 2 days prior to the commencement of the new industrial activity.

A discharger is not precluded from submitting an NOI at a later date. However, in such instances, EPA may bring appropriate enforcement actions.

The storm water regulations (40 CFR 122.27) require that facilities that discharge storm water associated with an industrial activity submit an application for permit coverage on or before October 1, 1992, except industrial activities owned or operated by a medium municipality, which had until May 17, 1993. Today's permit does not extend that application deadline. EPA intends that most of the facilities that will seek coverage under the final version of today's permit are: members of groups with approved applications; facilities that submitted a Notice of

Intent to be covered by EPA's baseline general permit and now wish to switch to coverage under today's permit; or have submitted a complete individual application but have not yet received an individual permit.

EPA may deny coverage under this permit and require submittal of an individual NPDES permit application based on a review of the completeness and/or content of the NOI or other information (e.g., Endangered Species Act compliance, National Historic Preservation Act Compliance, water quality information, compliance history, history of spills, etc.). Where EPA requires a discharger authorized under this general permit to apply for an individual NPDES permit (or an alternative general permit), EPA will notify the discharger in writing that a permit application (or different NOI) is required by an established deadline. Coverage under this industry general permit will automatically terminate if the discharger fails to submit the required permit application in a timely manner. Where the discharger does submit a requested permit application, coverage under this general permit will automatically terminate on the effective date of the issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee. Compliance deadlines are discussed in Part VI.H. of this fact sheet.

Municipal Separate Storm Sewer System Operator Notification

Operators of storm water discharges associated with industrial activity that discharge through a large or medium municipal separate storm sewer system or a municipal system designated by the Director,[4] must notify the municipal operator of the system receiving the discharge and submit a copy of their NOI to the municipal operator.

4. Notice of Termination

Where a discharger is able to eliminate the storm water discharges associated with industrial activity from a facility, the discharger may submit a Notice of Termination (NOT) form (or photocopy thereof) provided by the Director.

A copy of the NOT and instructions for completing the NOT are included in Addendum C. The NOT form requires the following information:

a. Name, mailing address, and location of the facility for which the notification is submitted. Where a street address for the site is not available, the location of the approximate center of the site must be described in terms of the latitude and longitude to the nearest 15 seconds, or the section, township and range to the nearest quarter;

b. The name, address and telephone number of the operator addressed by the Notice of Termination;

c. The NPDES permit number for the storm water discharge associated with industrial activity identified by the NOT;

d. An indication of whether the storm water discharges associated with industrial activity have been eliminated or the operator of the discharges has changed; and

e. The following certification:

I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by an NPDES general permit have been eliminated or that I am no longer the operator of the industrial activity. I understand that by submitting this Notice of Termination I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by an NPDES permit. I also understand that the submittal of this notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

NOTs are to be sent to the Storm Water Notice of Termination (4203), 401 M Street, SW., Washington, DC 20460.

The NOT must be signed in accordance with the signatory requirements of 40 CFR 122.22. A complete description of these signatory requirements is provided in the instructions accompanying the NOT.

B. Special Conditions

The conditions of this permit have been designed to comply with the technology-based standards of the CWA (BAT/BCT). Based on a consideration of the appropriate factors for BAT and BCT requirements, and a consideration of the factors and options discussed in this fact sheet for controlling pollutants in storm water discharges associated with industrial activity, the general permit lists a set of tailored requirements for developing and implementing storm water pollution prevention plans, and for selected discharges, effluent limitations.[5]

Part VIII. of this fact sheet summarizes the options for controlling pollutants in storm water discharges associated with industrial activity. The permit includes numeric effluent limitations for coal pile runoff, contaminated runoff from fertilizer manufacturing facilities, runoff from asphalt emulsion manufacturing facilities, and material storage pile runoff located at cement manufacturing facilities or cement kilns.

For other discharges covered by the permit, the permit conditions reflect EPA's decision to identify a number of best management practices and traditional storm water management practices which prevent pollution in storm water discharges as the BAT/BCT level of control for the majority of storm water discharges covered by this permit. The permit conditions applicable to these discharges are not numeric effluent limitations, but rather are flexible requirements for developing and implementing site specific plans to minimize and control pollutants in storm water discharges associated with industrial activity. This approach is consistent with the approach used in the baseline general permits finalized on September 9, 1992 (57 FR 41236) and September 25, 1992 (57 FR 44438). In addition, today's general permit reflects information received through the group application process.

EPA is authorized under 40 CFR 122.44(k)(2) to impose BMPs in lieu of numeric effluent limitations in NPDES permits when the Agency finds numeric effluent limitations to be infeasible. EPA may also impose BMPs which are "reasonably necessary * * * to carry out the purposes of the Act" under 40 CFR 122.44(k)(3). Both of these standards for imposing BMPs were recognized in *NRDC* v. *Costle*, 568 F.2d 1369, 1380 (D.C. Cir. 1977). The conditions in the permit are issued under the authority of both of these regulatory provisions. The pollution prevention or BMP requirements in this permit operate as limitations on effluent discharges that reflect the application of BAT/BCT. This is because the BMPs identified require the use of source

[4] The terms large and medium municipal separate storm sewer systems (systems serving a population of 100,000 or more) are defined at 40 CFR 122.26(b)(4) and (7). Some of the cities and counties in which these systems are found are listed in Appendices F, G, H, and I to 40 CFR Part 122. Other municipal systems have been designated by EPA on a case-by-case basis or have brought into the program based upon the 1990 Census.

[5] Part I.C.2 of the general permit provides that facilities with storm water discharges associated with industrial activity which, based on an evaluation of site specific conditions, believe that the appropriate conditions of this permit do not adequately represent BAT and BCT requirements for the facility may submit to the Director an individual application (Form 1 and Form 2F). A detailed explanation of the reasons why the conditions of the available general permits do not adequately represent BAT and BCT requirements for the facility as well as any supporting documentation must be included.

control technologies which, in the context of this general permit, are the best available of the technologies economically achievable (or the equivalent BCT finding). See *NRDC* v. *EPA*, 822 F.2d 104, 122–23 (D.C. Cir. 1987) (EPA has substantial discretion to impose nonquantitative permit requirements pursuant to Section 402(a)(1)).

1. Prohibition of Non-storm Water Discharges

Today's general permit does not authorize non-storm water discharges that are mixed with storm water except as provided below. The only non-storm water discharges that are intended to be authorized under today's permit include discharges from fire fighting activities; fire hydrant flushings; potable water sources, including waterline flushings; irrigation drainage; lawn watering; routine external building washdown without detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; compressor condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents that are combined with storm water discharges associated with industrial activity.

To be authorized under the general permit, these sources of non-storm water (except flows from fire fighting activities) must be identified in the storm water pollution prevention plan prepared for the facility. (Plans and other plan requirements are discussed in more detail below). Where such discharges occur, the plan must also identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

Today's permit does not require pollution prevention measures to be identified and implemented for non-storm water flows from fire-fighting activities because these flows will generally be unplanned emergency situations where it is necessary to take immediate action to protect the public.

The prohibition of unpermitted non-storm water discharges in this permit ensures that non-storm water discharges (except for those classes of non-storm water discharges that are conditionally authorized in Part III.A.2.b.) are not inadvertently authorized by this permit. Where a storm water discharge is mixed with non-storm water that is not authorized by today's general permit or another NPDES permit, the discharger should submit the appropriate application forms (Forms 1, 2C, and/or 2E) to gain permit coverage of the non-storm water portion of the discharge.

2. Releases of Reportable Quantities of Hazardous Substances and Oil

a. This general permit provides that the discharge of hazardous substances or oil from a facility must be eliminated or minimized in accordance with the storm water pollution plan developed for the facility. Where a permitted storm water discharge contains a hazardous substance or oil in an amount equal to or in excess of a reporting quantity established under 40 CFR Part 117, or 40 CFR Part 302 during a 24-hour period, the following actions must be taken:

(1) Any person in charge of the facility that discharges hazardous substances or oil is required to notify the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area, 202–426–2675) in accordance with the requirements of 40 CFR Part 117, and 40 CFR Part 302 as soon as they have knowledge of the discharge.

(2) The storm water pollution prevention plan for the facility must be modified within 14 calendar days of knowledge of the release to provide a description of the release, an account of the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and it must be modified where appropriate.

(3) The permittee must also submit to EPA within 14 calendar days of knowledge of the release a written description of the release (including the type and estimate of the amount of material released), the date that such release occurred, the circumstances leading to the release, and steps to be taken to modify the pollution prevention plan for the facility.

b. Anticipated discharges containing a hazardous substance in an amount equal to or in excess of reporting quantities are those caused by events occurring within the scope of the relevant operating system. Facilities that have more than 1 anticipated discharge per year containing a hazardous substance in an amount equal to or in excess of a reportable quantity are required to:

(1) Submit notifications of the first release that occurs during a calendar year (or for the first year of this permit, after submittal of an NOI); and

(2) Provide a written description in the storm water pollution prevention plan of the dates on which such releases occurred, the type and estimate of the amount of material released, and the circumstances leading to the releases. In addition, the pollution prevention plan must address measures to minimize such releases.

c. Where a discharge of a hazardous substance or oil in excess of reporting quantities is caused by a non-storm water discharge (e.g., a spill of oil into a separate storm sewer), that discharge is not authorized by this permit and the discharger must report the discharge as required under 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302. In the event of a spill, the requirements of Section 311 of the CWA and other applicable provisions of Sections 301 and 402 of the CWA continue to apply. This approach is consistent with the requirements for reporting releases of hazardous substances and oil that make a clear distinction between hazardous substances typically found in storm water discharges and those associated with spills that are not considered part of a normal storm water discharge (see 40 CFR 117.12(d)(2)(i)).

3. Co-located Industrial Facilities

Today's general permit addresses storm water discharges from industrial activities co-located at an industrial facility described in the coverage section of the permit. Co-located industrial activities occur when activities being conducted onsite meet more than one of the descriptions in the coverage sections of Part XI. of this permit (e.g., a landfill at a wood treatment facility or a vehicle maintenance garage at an asphalt batching plant). Co-located industrial activities are authorized under today's general permit provided that the industrial facility complies with the pollution prevention plan and monitoring requirements for each co-located activity.

Authorizing co-located discharges allows industrial facilities to develop pollution prevention plans that fully address all industrial activities at the site. For example, if a wood treatment facility has a landfill, the pollution prevention plan requirements for the wood treatment facility will differ greatly from those needed for a landfill. Therefore, by authorizing co-located industrial activities, the wood treatment facility will develop a pollution prevention plan to meet the requirements addressing the storm water discharges from the wood treatment facility and the landfill. The facility is also subject to applicable monitoring requirements for each type of industrial activity as described in the applicable sections of the permit. By

monitoring the discharges from the different industrial activities, the facility can better determine the effectiveness of the pollution prevention plan requirements for controlling storm water discharges from all activities.

C. Common Pollution Prevention Plan Requirements

All facilities intended to be covered by today's general permit for storm water discharges associated with industrial activity must prepare and implement a storm water pollution prevention plan. The storm water permit addresses pollution prevention plan requirements for a number of categories of industries. The following is a discussion of the common permit requirements for all industries; special requirements for storm water discharges associated with industrial activity through large and medium municipal separate storm sewer systems; special requirements for facilities subject to EPCRA Section 313 reporting requirements; and special requirements for facilities with outdoor salt storage piles. These are the permit requirements which apply to discharges associated with any of the industrial activities covered by today's permit. These common requirements may be amended or further clarified in the industry-specific pollution prevention plan requirements. Table 2 indicates the location of the industry-specific pollution prevention plans. These industry-specific requirements are additive for facilities where co-located industrial activities occur. For example, if a facility has both a sand and gravel mining operation and a ready mix concrete manufacturing operation, then that facility is subject to the pollution prevention plan requirements in both Part XI.E.3. and Part XI.J.3. of the permit.

TABLE 2.—STORM WATER POLLUTION PREVENTION PLAN REQUIREMENTS

Industrial activity	Fact sheet section describing PPP requirements	Permit section describing PPP requirements
Timber Products Facilities	VIII.A.7	XI.A.3.
Paper and Allied Products Manufacturing Facilities	VIII.B.5	XI.B.3.
Chemical and Allied Products Manufacturing Facilities	VIII.C.6	XI.C.4.
Asphalt Paving and Roofing Materials Manufacturers and Lubricant Manufacturers	VIII.D.4	XI.D.3.
Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing Facilities	VIII.E.5	XI.E.3.
Primary Metals Facilities	VIII.F.6	XI.F.3.
Metal Mining (Ore Mining and Dressing) Facilities	VIII.G.5	XI.G.3.
Coal Mines and Coal Mining-Related Facilities	VIII.H.4	XI.H.3.
Oil and Gas Extraction Facilities	VIII.I.5	XI.I.3.
Mineral Mining and Processing Facilities	VIII.J.4	XI.J.3.
Hazardous Waste Treatment, Storage, or Disposal Facilities	VIII.K.5	XI.K.3.
Landfills and Land Application Sites	VIII.L.5	XI.L.3.
Automobile Salvage Yards	VIII.M.5	XI.M.2.
Scrap and Waste Recycling Facilities	VIII.N.5	XI.N.3.
Steam Electric Power Generating Facilities, Including Coal Handling Areas	VIII.O.5	XI.O.3.
Vehicle Maintenance or Equipment Cleaning Areas at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and the United States Postal Service Transportation Facilities.	VIII.P.5	XI.P.3.
Vehicle Maintenance Areas and/or Equipment Cleaning Operations at Water Transportation Facilities	VIII.Q.5	XI.Q.3.
Ship and Boat Building or Repairing Yards	VIII.R.6	XI.R.3.
Vehicle Maintenance Areas, Equipment Cleaning Areas, or Deicing Areas Located at Air Transportation Facilities.	VIII.S.4	XI.S.3.
Treatment Works	VIII.T.5	XI.T.3.
Food and Kindred Products Facilities	VIII.U.4	XI.U.3.
Textile Mills, Apparel, and Other Fabric Product Manufacturing Facilities	VIII.V.5	XI.V.3.
Wood and Metal Furniture and Fixture Manufacturing Facilities	VIII.W.4	XI.W.3.
Printing and Publishing Facilities	VIII.X.5	XI.X.3.
Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries	VIII.Y.4	XI.Y.3.
Leather Tanning and Finishing Facilities	VIII.Z.5	XI.Z.3.
Fabricated Metal Products Industry	VIII.AA.3	XI.AA.3.
Facilities That Manufacture Transportation Equipment, Industrial, or Commercial Machinery.	VIII.AB.5	XI.AB.3.
Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods.	VIII.AC.5	XI.AC.3.

The pollution prevention approach in today's general permit focuses on two major objectives: (1) to identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from the facility; and (2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity from the facility and to ensure compliance with the terms and conditions of this permit.

The storm water pollution prevention plan requirements in the general permit are intended to facilitate a process whereby the operator of the industrial facility thoroughly evaluates potential pollution sources at the site and selects and implements appropriate measures designed to prevent or control the discharge of pollutants in storm water runoff. The process involves the following four steps: (1) Formation of a team of qualified plant personnel who will be responsible for preparing the plan and assisting the plant manager in its implementation; (2) assessment of potential storm water pollution sources; (3) selection and implementation of appropriate management practices and controls; and (4) periodic evaluation of the effectiveness of the plan to prevent

storm water contamination and comply with the terms and conditions of this permit. The authorization to include best management practices in the permit to control or abate the discharge of pollutants is derived from 40 CFR 144.45(k).

EPA believes the pollution prevention approach is the most environmentally sound and cost-effective way to control the discharge of pollutants in storm water runoff from industrial facilities. This position is supported by the results of a comprehensive technical survey EPA completed in 1979.[6] The survey found that two classes of management practices are generally employed at industries to control the nonroutine discharge of pollutants from sources such as storm water runoff, drainage from raw material storage and waste disposal areas, and discharges from places where spills or leaks have occurred. The first class of management practices includes those that are low in cost, applicable to a broad class of industries and substances, and widely considered essential to a good pollution control program. Some examples of practices in this class are good housekeeping, employee training, and spill response and prevention procedures. The second class includes management practices that provide a second line of defense against the release of pollutants. This class addresses containment, mitigation, and cleanup. Since publication of the 1979 survey, EPA has imposed management practices and controls in NPDES permits on a case-by-case basis. The Agency also has continued to review the appropriateness and effectiveness of such practices,[7] as well as the techniques used to prevent and contain oil spills.[8] Experience with these practices and controls has shown that they can be used in permits to reduce pollutants in storm water discharges in a cost-effective manner. In keeping with both the present and previous administration's objective to attain environmental goals through pollution prevention, pollution prevention has been and continues to be the cornerstone of the NPDES Permitting program for storm water. EPA has developed guidance entitled "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices," September 1992, to assist permittees in developing and implementing pollution prevention measures.

1. Pollution Prevention Team

As a first step in the process of developing and implementing a storm water pollution prevention plan, permittees are required to identify a qualified individual or team of individuals to be responsible for developing the plan and assisting the facility or plant manager in its implementation. When selecting members of the team, the plant manager should draw on the expertise of all relevant departments within the plant to ensure that all aspects of plant operations are considered when the plan is developed. The plan must clearly describe the responsibilities of each team member as they relate to specific components of the plan. In addition to enhancing the quality of communication between team members and other personnel, clear delineation of responsibilities will ensure that every aspect of the plan is addressed by a specified individual or group of individuals. Pollution Prevention Teams may consist of one individual where appropriate (e.g., in certain small businesses with limited storm water pollution potential).

2. Description of Potential Pollution Sources

Each storm water pollution prevention plan must describe activities, materials, and physical features of the facility that may contribute significant amounts of pollutants to storm water runoff or, during periods of dry weather, result in pollutant discharges through the separate storm sewers or storm water drainage systems that drain the facility. This assessment of storm water pollution risk will support subsequent efforts to identify and set priorities for necessary changes in materials, materials management practices, or site features, as well as aid in the selection of appropriate structural and nonstructural control techniques. Some operators may find that significant amounts of pollutants are running onto the facility property. Such operators should identify and address the contaminated runon in the storm water pollution prevention plan. If the runon cannot be addressed or diverted by the permittee, the permitting authority should be notified. If necessary, the permitting authority may require the operator of the adjacent facility to obtain a permit.

Part XI of the permit includes specific requirements for the various industry sectors covered by today's permit. The storm water pollution prevention plans generally must describe the following elements:

a. Drainage. The plan must contain a map of the site that shows the location of outfalls covered by the permit (or by other NPDES permits), the pattern of storm water drainage, an indication of the types of discharges contained in the drainage areas of the outfalls, structural features that control pollutants in runoff,[9] surface water bodies (including wetlands), places where significant materials [10] are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. The map also must show areas where the following activities take place: fueling, vehicle and equipment maintenance and/or cleaning, loading and unloading, material storage (including tanks or other vessels used for liquid or waste storage), material processing, and waste disposal. For areas of the facility that generate storm water discharges with a reasonable potential to contain significant amounts of pollutants, the map must indicate the probable direction of storm water flow and the pollutants likely to be in the discharge. Flows with a significant potential to cause soil erosion also must be identified. In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

b. Inventory of Exposed Materials. Facility operators are required to

[6] See "Storm Water Management for Industrial Activities," EPA, September 1992, EPA–832–R–92–006.

[7] For example, see "Best Management Practices: Useful Tools for Cleaning Up," Thron, H. Rogoshewski, P., 1982, Proceedings of the 1982 Hazardous Material Spills Conference; "The Chemical Industries' Approach to Spill Prevention," Thompson, C., Goodier, J. 1980, Proceedings of the 1980 National Conference of Control of Hazardous Materials Spills; a series of EPA memorandum entitled "Best Management Practices in NPDES Permits—Information Memorandum," 1983, 1985, 1986, 1987, 1988; Review of Emergency Systems: Report to Congress," EPA, 1988; and "Analysis of Implementing Permitting Activities for Storm Water Discharges Associated with Industrial Activity," EPA, 1991.

[8] See for example, "The Oil Spill Prevention, Control and Countermeasures Program Task Force Report," EPA, 1988; and "Guidance Manual for the Development of an Accidental Spill Prevention Program," prepared by SAIC for EPA, 1986.

[9] Nonstructural features such as grass swales and vegetative buffer strips also should be shown.

[10] Significant materials include, but are not limited to the following: raw materials; fuels; solvents, detergents, and plastic pellets; finished materials, such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); any chemical the facility is required to report pursuant to EPCRA Section 313; fertilizers; pesticides; and waste products, such as ashes, slag, and sludge that have the potential to be released with storm water discharges. (See 40 CFR 122.26(b)(8)).

carefully conduct an inspection of the site and related records to identify significant materials that are or may be exposed to storm water. The inventory must address materials that within 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit have been handled, stored, processed, treated, or disposed of in a manner to allow exposure to storm water. Findings of the inventory must be documented in detail in the pollution prevention plan. At a minimum, the plan must describe the method and location of onsite storage or disposal; practices used to minimize contact of materials with rainfall and runoff; existing structural and nonstructural controls that reduce pollutants in runoff; and any treatment the runoff receives before it is discharged to surface waters or a separate storm sewer system. The description must be updated whenever there is a significant change in the types or amounts of materials, or material management practices, that may affect the exposure of materials to storm water.

c. Significant Spills and Leaks. The plan must include a list of any significant spills and leaks of toxic or hazardous pollutants that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Section 311 of CWA (see 40 CFR 110.10 and 40 CFR 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR 302.4). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements and releases of materials that are not classified as oil or a hazardous substance.

The listing should include a description of the causes of each spill or leak, the actions taken to respond to each release, and the actions taken to prevent similar such spills or leaks in the future. This effort will aid the facility operator as she or he examines existing spill prevention and response procedures and develops any additional procedures necessary to fulfill the requirements of Part XI. of this permit.

d. Non-storm Water Discharges. Each pollution prevention plan must include a certification, signed by an authorized individual, that discharges from the site have been tested or evaluated for the presence of non-storm water discharges. The certification must describe possible significant sources of non-storm water, the results of any test and/or evaluation conducted to detect such discharges, the test method or evaluation criteria used, the dates on which tests or evaluations were performed, and the onsite drainage points directly observed during the test or evaluation. Acceptable test or evaluation techniques include dye tests, television surveillance, observation of outfalls or other appropriate locations during dry weather, water balance calculations, and analysis of piping and drainage schematics.[11]

Except for flows that originate from fire fighting activities, sources of non-storm water that are specifically identified in the permit as being eligible for authorization under the general permit must be identified in the plan. Pollution prevention plans must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water discharge.

EPA recognizes that certification may not be feasible where facility personnel do not have access to an outfall, manhole, or other point of access to the conduit that ultimately receives the discharge. In such cases, the plan must describe why certification was not feasible. Permittees who are not able to certify that discharges have been tested or evaluated must notify the Director in accordance with Part XI. of the permit.

e. Sampling Data. Any existing data on the quality or quantity of storm water discharges from the facility must be described in the plan, including data collected for part 2 of the group application process. These data may be useful for locating areas that have contributed pollutants to storm water. The description should include a discussion of the methods used to collect and analyze the data. Sample collection points should be identified in the plan and shown on the site map.

f. Summary of Potential Pollutant Sources. The description of potential pollution sources culminates in a narrative assessment of the risk potential that sources of pollution pose to storm water quality. This assessment should clearly point to activities, materials, and physical features of the facility that have a reasonable potential to contribute significant amounts of pollutants to storm water. Any such activities, materials, or features must be addressed by the measures and controls subsequently described in the plan. In conducting the assessment, the facility operator must consider the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The assessment must list any significant pollution sources at the site and identify the pollutant parameter or parameters (i.e., biochemical oxygen demand, suspended solids, etc.) associated with each source.

3. Measures and Controls

Following completion of the source identification and assessment phase, the permit requires the permittee to evaluate, select, and describe the pollution prevention measures, best management practices (BMPs), and other controls that will be implemented at the facility. BMPs include processes, procedures, schedules of activities, prohibitions on practices, and other management practices that prevent or reduce the discharge of pollutants in storm water runoff.

EPA emphasizes the implementation of pollution prevention measures and BMPs that reduce possible pollutant discharges at the source. Source reduction measures include, among others, preventive maintenance, chemical substitution, spill prevention, good housekeeping, training, and proper materials management. Where such practices are not appropriate to a particular source or do not effectively reduce pollutant discharges, EPA supports the use of source control measures and BMPs such as material segregation or covering, water diversion, and dust control. Like source reduction measures, source control measures and BMPs are intended to keep pollutants out of storm water. The remaining classes of BMPs, which involve recycling or treatment of storm water, allow the reuse of storm water or attempt to lower pollutant concentrations prior to discharge.

The pollution prevention plan must discuss the reasons each selected control or practice is appropriate for the facility and how each will address one or more of the potential pollution sources identified in the plan. The plan also must include a schedule specifying the time or times during which each control or practice will be implemented. In addition, the plan should discuss ways in which the controls and practices relate to one another and, when taken as a whole, produce an integrated and consistent approach for preventing or controlling potential storm water contamination problems. The permit requirements included for the various industry sectors in Part XI

[11] In general, smoke tests should not be used for evaluating the discharge of non-storm water to a separate storm sewer as many sources of non-storm water typically pass through a trap that would limit the effectiveness of the smoke test.

of today's permit generally require that the portion of the plan that describes the measures and controls address the following minimum components.

When "minimize/reduce" is used relative to pollution prevention plan measures, EPA means to consider and implement best management practices that will result in an improvement over the baseline conditions as it relates to the levels of pollutants identified in storm water discharges with due consideration to economic feasibility and effectiveness.

a. Good Housekeeping. Good housekeeping involves using practical, cost-effective methods to identify ways to maintain a clean and orderly facility and keep contaminants out of separate storm sewers. It includes establishing protocols to reduce the possibility of mishandling chemicals or equipment and training employees in good housekeeping techniques. These protocols must be described in the plan and communicated to appropriate plant personnel.

b. Preventive Maintenance. Permittees must develop a preventive maintenance program that involves regular inspection and maintenance of storm water management devices and other equipment and systems. The program description should identify the devices, equipment, and systems that will be inspected; provide a schedule for inspections and tests; and address appropriate adjustment, cleaning, repair, or replacement of devices, equipment, and systems. For storm water management devices such as catch basins and oil/water separators, the preventive maintenance program should provide for periodic removal of debris to ensure that the devices are operating efficiently. For other equipment and systems, the program should reveal and enable the correction of conditions that could cause breakdowns or failures that may result in the release of pollutants.

c. Spill Prevention and Response Procedures. Based on an assessment of possible spill scenarios, permittees must specify appropriate material handling procedures, storage requirements, containment or diversion equipment, and spill cleanup procedures that will minimize the potential for spills and in the event of a spill enable proper and timely response. Areas and activities that typically pose a high risk for spills include loading and unloading areas, storage areas, process activities, and waste disposal activities. These activities and areas, and their accompanying drainage points, must be described in the plan. For a spill prevention and response program to be effective, employees should clearly understand the proper procedures and requirements and have the equipment necessary to respond to spills.

d. Inspections. In addition to the comprehensive site evaluation, facilities are required to conduct periodic inspections of designated equipment and areas of the facility. Industry-specific requirements for such inspections, if any, are discussed in Section VIII. of this fact sheet. When required, qualified personnel must be identified to conduct inspections at appropriate intervals specified in the plan. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections must be maintained. These periodic inspections are different from the comprehensive site evaluation, even though the former may be incorporated into the latter. Equipment, area, or other inspections are typically visual and are normally conducted on a regular basis, e.g., daily inspections of loading areas. Requirements for such periodic inspections are specific to each industrial sector in today's permit, whereas the comprehensive site compliance evaluation is required of all industrial sectors. Area inspections help ensure that storm water pollution prevention measures (e.g., BMPs) are operating and properly maintained on a regular basis. The comprehensive site evaluation is intended to provide an overview of the entire facility's pollution prevention activities. Refer to Part VI.C.4. below for more information on the comprehensive site evaluation.

e. Employee Training. The pollution prevention plan must describe a program for informing personnel at all levels of responsibility of the components and goals of the storm water pollution prevention plan. The training program should address topics such as good housekeeping, materials management, and spill response procedures. Where appropriate, contractor personnel also must be trained in relevant aspects of storm water pollution prevention. A schedule for conducting training must be provided in the plan. Several sections in Part XI. of today's permit specify a minimum frequency for training of once per year. Others indicate that training is to be conducted at an appropriate interval. EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan.

f. Recordkeeping and Internal Reporting Procedures. The pollution prevention plan must describe procedures for developing and retaining records on the status and effectiveness of plan implementation. At a minimum, records must address spills, monitoring, and inspection and maintenance activities. The plan also must describe a system that enables timely reporting of storm water management-related information to appropriate plant personnel.

g. Sediment and Erosion Control. The pollution prevention plan must identify areas that, due to topography, activities, soils, cover materials, or other factors have a high potential for significant soil erosion. The plan must identify measures that will be implemented to limit erosion in these areas.

h. Management of Runoff. The plan must contain a narrative evaluation of the appropriateness of traditional storm water management practices (i.e., practices other than those that control pollutant sources) that divert, infiltrate, reuse, or otherwise manage storm water runoff so as to reduce the discharge of pollutants. Appropriate measures may include, among others, vegetative swales, collection and reuse of storm water, inlet controls, snow management, infiltration devices, and wet detention/retention basins.

Based on the results of the evaluation, the plan must identify practices that the permittee determines are reasonable and appropriate for the facility. The plan also should describe the particular pollutant source area or activity to be controlled by each storm water management practice. Reasonable and appropriate practices must be implemented and maintained according to the provisions prescribed in the plan.

In selecting storm water management measures, it is important to consider the potential effects of each method on other water resources, such as ground water. Although storm water pollution prevention plans primarily focus on storm water management, facilities must also consider potential ground water pollution problems and take appropriate steps to avoid adversely impacting ground water quality. For example, if the water table is unusually high in an area, an infiltration pond may contaminate a ground water source unless special preventive measures are taken. Under EPA's July 1991 Ground Water Protection Strategy, States are encouraged to develop Comprehensive State Ground Water Protection Programs (CSGWPP). Efforts to control storm water should be compatible with State ground water objectives as reflected in CSGWPPs.

4. Comprehensive Site Compliance Evaluation

The permit requires that the storm water pollution prevention plan describe the scope and content of the comprehensive site evaluations that qualified personnel will conduct to (1) confirm the accuracy of the description of potential pollution sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of the permit. Note that the comprehensive site evaluations are not the same as periodic or other inspections described for certain industries under Part VI.C.3.d of this fact sheet. However, in the instances when frequencies of inspections and the comprehensive site compliance evaluation overlap they may be combined allowing for efficiency, as long as the requirements for both types of inspections are met. The plan must indicate the frequency of comprehensive evaluations which must be at least once a year, except where comprehensive site evaluations are shown in the plan to be impractical for inactive mining sites, due to remote location and inaccessibility. [12] The individual or individuals who will conduct the comprehensive site evaluation must be identified in the plan and should be members of the pollution prevention team. Material handling and storage areas and other potential sources of pollution must be visually inspected for evidence of actual or potential pollutant discharges to the drainage system. Inspectors also must observe erosion controls and structural storm water management devices to ensure that each is operating correctly. Equipment needed to implement the pollution prevention plan, such as that used during spill response activities, must be inspected to confirm that it is in proper working order.

The results of each comprehensive site evaluation must be documented in a report signed by an authorized company official. The report must describe the scope of the comprehensive site evaluation, the personnel making the comprehensive site evaluation, the date(s) of the comprehensive site evaluation, and any major observations relating to implementation of the storm water pollution prevention plan. Comprehensive site evaluation reports must be retained for at least 3 years after the date of the evaluation. Based on the results of each comprehensive site evaluation, the description in the plan of potential pollution sources and measures and controls must be revised as appropriate within 2 weeks after each comprehensive site evaluation, unless indicated otherwise in Section XI of the permit. Changes in procedural operations must be implemented on the site in a timely manner for non-structural measures and controls not more than 12 weeks after completion of the comprehensive site evaluation. Procedural changes that require construction of structural measures and controls are allowed up to 3 years for implementation. In both instances, an extension may be requested from the Director.

D. Special Requirements

1. Special Requirements for Storm Water Discharges Associated With Industrial Activity Through Large and Medium Municipal Separate Storm Sewer Systems

Permittees that discharge storm water associated with industrial activity through large or medium municipal separate storm sewer systems [13] are required to submit notification of the discharge to the operator of the municipal separate storm sewer system. A list of these systems is provided in Addendum D of today's notice.

Facilities covered by this permit must comply with applicable requirements in municipal storm water management programs developed under NPDES permits issued for the discharge of the municipal separate storm sewer system that receives the facility's discharge, provided the discharger has been notified of such conditions. In addition, permittees that discharge storm water associated with industrial activity through a large or medium municipal separate storm sewer system must make their pollution prevention plans available to the municipal operator of the system upon request by the municipal operator.

2. Special Requirements for Storm Water Discharges Associated With Industrial Activity From Facilities Subject to EPCRA Section 313 Requirements

Today's permit contains special requirements for certain permittees subject to reporting requirements under Section 313 of the EPCRA (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA)). EPCRA Section 313 requires operators of certain facilities that manufacture (including import), process, or otherwise use listed toxic chemicals to report annually their releases of those chemicals to any environmental media. Listed toxic chemicals include more than 500 chemicals and chemical classes listed at 40 CFR Part 372 (including the recently added chemicals published November 30, 1994).

The criteria for facilities that must report under Section 313 are given at 40 CFR 372.22. A facility is subject to the annual reporting provisions of Section 313 if it meets all three of the following criteria for a calendar year: it is included in SIC codes 20 through 39; it has 10 or more full-time employees; and it manufactures (including imports), processes, or otherwise uses a chemical listed in 40 CFR 372.65 in amounts greater than the "threshold" quantities specified in 40 CFR 372.25.

There are more than 300 individually listed Section 313 chemicals, as well as 20 categories of Toxic Release Inventory (TRI) chemicals for which reporting is required. EPA has the authority to add to and delete from this list. The Agency has identified approximately 175 chemicals that it is classifying for the purposes of this general permit as "Section 313 water priority chemicals." For the purposes of this permit, Section 313 water priority chemicals are defined as chemicals or chemical categories that (1) are listed at 40 CFR 372.65 pursuant to EPCRA Section 313; (2) are manufactured, processed, or otherwise used at or above threshold levels at a facility subject to EPCRA Section 313 reporting requirements; and (3) meet at least one of the following criteria: (i) are listed in Appendix D of 40 CFR Part 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols), or Table V (certain toxic pollutants and hazardous substances); (ii) are listed as a hazardous substance pursuant to Section 311(b)(2)(A) of the CWA at 40 CFR 116.4; or (iii) are pollutants for which EPA has published acute or chronic toxicity criteria. A list of the water priority chemicals is provided in Addendum F to today's notice. In today's permit, EPA is not extending the special requirements to facilities that store liquid chemicals in above-ground tanks or handle liquid chemicals in areas exposed to precipitation if such facilities are not subject to EPCRA Section 313 reporting requirements.

[12] Where annual site inspections are shown in the plan to be impractical for inactive mining sites, due to remote location and inaccessibility, site inspections must be conducted at least once every 3 years.

[13] Large and medium municipal separate storm sewer systems are systems located in an incorporated city with a population of 100,000 or more, or in a county identified as having a large or medium system (see 40 CFR 122.26(b) (4) and (7) and Appendices F through I to Part 122). A list of these municipalities is provided in Addendum D to today's notice.

a. Summary of Special Requirements. The special requirements in today's permit for facilities subject to reporting requirements under EPCRA Section 313 for a water priority chemical, except those that are handled and stored only in gaseous or non-soluble liquids or solids (at atmospheric pressure and temperature) forms (see Part VI.D.2.c below), state that storm water pollution prevention plans, in addition to the baseline requirements for plans, must contain special provisions addressing areas where Section 313 water priority chemicals are stored, processed, or otherwise handled. These requirements reflect the Best Available Technology for controlling discharges of water priority chemicals in storm water. The permit provides that appropriate containment, drainage control, and/or diversionary structures must be provided for such areas. An exemption from the special provisions for Section 313 facilities will be granted if the facility can certify in the pollution prevention plan that all water priority chemicals handled or used are gaseous or non-soluble liquids or solids (at atmospheric pressure and temperature). At a minimum, one of the following preventive systems or its equivalent must be used: curbing, culverting, gutters, sewers, or other forms of drainage control to prevent or minimize the potential for storm water runon to come into contact with significant sources of pollutants; or roofs, covers, or other forms of appropriate protection to prevent storage piles from exposure to storm water and wind.

In addition, the permit establishes requirements for priority areas of the facility. Priority areas of the facility include the following: liquid storage areas where storm water comes into contact with any equipment, tank, container, or other vessel used for Section 313 water priority chemicals; material storage areas for Section 313 water priority chemicals other than liquids; truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals; and areas where Section 313 water priority chemicals are transferred, processed, or otherwise handled.

The permit provides that site runoff from other industrial areas of the facility that may contain Section 313 water priority chemicals or spills of Section 313 water priority chemicals must incorporate the necessary drainage or other control features to prevent the discharge of spilled or improperly disposed material and to ensure the mitigation of pollutants in runoff or leachate. The permit also establishes special requirements for preventive maintenance and good housekeeping, facility security, and employee training.

In the proposed permit, EPA proposed to require facilities subject to EPCRA Section 313 requirements to have a Registered Professional Engineer (PE) certify their pollution prevention plans every 3 years. However, in response to commentors' concerns, EPA has revised the permit to eliminate the PE certification requirement. Instead, the permit now requires facilities subject to the special requirements to satisfy the pollution prevention plan signature requirements in Part IV.B.1. of the permit. EPA agrees with commentors that the operator is the most appropriate person to perform the certification. In addition, instead of certifying the plan every 3 years, facilities subject to EPCRA Section 313 requirements must amend the pollution prevention plan only when significant modifications are made to the facility, such as the addition of material handling areas or chemical storage units.

b. Requirements for Priority Areas. The permit provides that drainage from priority areas should be restrained by valves or other positive means to prevent the discharge of a spill or other excessive leakage of Section 313 water priority chemicals. Where containment units are employed, such units may be emptied by pumps or ejectors; however, these must be manually activated. Flapper-type drain valves must not be used to drain containment areas, as these will not effectively control spills. Valves used for the drainage of containment areas should, as far as is practical, be of manual, open-and-closed design. If facility drainage does not meet these requirements, the final discharge conveyance of all in-facility storm sewers must be equipped to be equivalent with a diversion system that could, in the event of an uncontrolled spill of Section 313 water priority chemicals, return the spilled material or contaminated storm water to the facility. Records must be kept of the frequency and estimated volume (in gallons) of discharges from containment areas.

Additional special requirements are related to the types of industrial activities that occur within the priority area. These requirements are summarized below:

(1) Liquid Storage Areas. Where storm water comes into contact with any equipment, tank, container, or other vessel used for Section 313 water priority chemicals, the material and construction of tanks or containers used for the storage of a Section 313 water priority chemical must be compatible with the material stored and conditions of storage, such as pressure and temperature. Liquid storage areas for Section 313 water priority chemicals must be operated to minimize discharges of Section 313 chemicals. Appropriate measures to minimize discharges of Section 313 chemicals may include secondary containment provided for at least the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation, a strong spill contingency and integrity testing plan, and/or other equivalent measures. A strong spill contingency plan would typically contain, at a minimum, a description of response plans, personnel needs, and methods of mechanical containment (such as use of sorbents, booms, collection devices, etc.), steps to taken for removal of spill chemicals or materials, and procedures to ensure access to and availability of sorbents and other equipment. The testing component of the plan would provide for conducting integrity testing of storage tanks at set intervals such as once every 5 years, and conducting integrity and leak testing of valves and piping at a minimum frequency, such as once per year. In addition, a strong plan would include a written and actual commitment of manpower, equipment and materials required to comply with the permit and to expeditiously control and remove any quantity of spilled or leaked chemicals that may result in a toxic discharge.

(2) Other Material Storage Areas. Material storage areas for Section 313 water priority chemicals other than liquids that are subject to runoff, leaching, or wind must incorporate drainage or other control features to minimize the discharge of Section 313 water priority chemicals by reducing storm water contact with Section 313 water priority chemicals.

(3) Truck and Rail Car Loading and Unloading Areas. Truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals must be operated to minimize discharges of Section 313 water priority chemicals. Appropriate measures to minimize discharges of Section 313 chemicals may include the placement and maintenance of drip pans (including the proper disposal of materials collected in the drip pans) where spillage may occur (such as hose connections, hose reels, and filler nozzles) when making and breaking hose connections; a strong spill contingency and integrity testing plan; and/or other equivalent measures.

(4) Other Transfer, Process, or Handling Areas. Processing equipment and materials handling equipment must be operated to minimize discharges of Section 313 water priority chemicals.

Materials used in piping and equipment must be compatible with the substances handled. Drainage from process and materials handling areas must minimize storm water contact with Section 313 water priority chemicals. Additional protection such as covers or guards to prevent exposure to wind, spraying or releases from pressure relief vents to prevent a discharge of Section 313 water priority chemicals to the drainage system, and overhangs or door skirts to enclose trailer ends at truck loading/unloading docks must be provided as appropriate. Visual inspections or leak tests must be provided for overhead piping conveying Section 313 water priority chemicals without secondary containment.

c. Today's permit allows facilities to provide a certification, signed in accordance with Part VII.G. (signatory requirements) of this permit, that all Section 313 water priority chemicals handled and/or stored onsite are only in gaseous or non-soluble liquid or solid (at atmospheric pressure and temperature) forms in lieu of the additional requirements in Part VI.E.2 of today's permit. By allowing such a certification, EPA hopes to limit the application of the special requirements Part IV.E.2. of the permit to those facilities with 313 water priority chemicals that truly have the potential to contaminate storm water discharges associated with industrial activity.

3. Special Requirements for Storm Water Discharges Associated With Industrial Activity From Salt Storage Facilities

Today's general permit contains special requirements for storm water discharges associated with industrial activity from salt storage facilities. Storage piles of salt used for deicing or other commercial or industrial purposes must be enclosed or covered to prevent exposure to precipitation, except for exposure resulting from adding or removing materials from the pile. This requirement only applies to runoff from storage piles discharged to waters of the United States. Facilities that collect all of the runoff from their salt piles and reuse it in their processes or discharge it subject to a separate NPDES permit do not need to enclose or cover their piles. Permittees must comply with this requirement as expeditiously as practicable, but in no event later than 3 years from the date of permit issuance.

These special requirements have been included in today's permit based on human health and aquatic effects resulting from storm water runoff from salt storage piles compounded with the prevalence of salt storage piles across the United States.

4. Consistency With Other Plans

Storm water pollution prevention plans may reference the existence of other plans for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under Section 311 of the CWA or Best Management Practices (BMP) Programs otherwise required by an NPDES permit for the facility as long as such requirement is incorporated into the storm water pollution prevention plan.

E. Monitoring and Reporting Requirements

The permit contains three general types of monitoring requirements: analytical monitoring or chemical monitoring; compliance monitoring for effluent guidelines compliance, and visual examinations of storm water discharges. This section provides a general description of each of these types of monitoring. Actual monitoring requirements for a given facility under the permit will vary depending upon the industrial activities that occur at a facility and the criteria for determining monitoring used to develop the permit. Table 3 lists the sections of the permit and of this fact sheet that describe the monitoring requirements as they apply to the specific industrial activities eligible for coverage under the permit. These are minimum monitoring requirements and if a permittee so chooses, he may conduct additional sampling to acquire more data to improve the statistical validity of the results. Through increased analytical or visual monitoring the permittee may be able to better ascertain the effectiveness of their pollution prevention plan.

Analytical monitoring requirements involve laboratory chemical analyses of samples collected by the permittee. The results of the analytical monitoring are quantitative concentration values for different pollutants, which can be easily compared to the results from other sampling events, other facilities, or to National benchmarks. Section VI.E.1. describes the analytical monitoring requirements and the process and criteria by which an industry sector or subsector was selected for analytical monitoring. Compliance monitoring requirements are imposed under today's permit to insure that discharges subject to numerical effluent limitations under the storm water effluent limitations guidelines are in compliance with those limitations. The compliance monitoring requirements are explained in Section VI.E.2.

Visual examinations of storm water discharges are the least burdensome type of monitoring requirement under the permit. Almost all of the industrial activities are required to perform visual examinations of their storm water discharges when they are occurring on a quarterly basis. Visual examinations are described in Section VI.E.8.

TABLE 3.—STORM WATER MONITORING REQUIREMENTS

Industrial activity	Section of fact sheet describing monitoring requirements	Permit section describing monitoring requirements
Timber Products Facilities*	VIII.A.6	XI.A.5.
Paper and Allied Products Manufacturing Facilities*	VIII.B.7	XI.B.5.
Chemical and Allied Products Manufacturing Facilities*	VIII.C.8	XI.C.5.
Asphalt Paving and Roofing Materials Manufacturers and Lubricant Manufacturers*	VIII.D.5	XI.D.5.
Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing Facilities*	VIII.E.7	XI.E.5.
Primary Metals Facilities*	VIII.F.7	XI.F.5.
Metal Mining (Ore Mining and Dressing) Facilities*	VIII.G.8	XI.G.5.
Coal Mines and Coal Mining-Related Facilities*	VIII.H.6	XI.H.5.
Oil and Gas Extraction Facilities*	VIII.I.7	XI.I.5.
Mineral Mining and Processing Facilities*	VIII.J.6	XI.J.5.
Hazardous Waste Treatment, Storage, or Disposal Facilities*	VIII.K.7	XI.K.5.
Landfills and Land Application Sites*	VIII.L.6	XI.L.5.

TABLE 3.—STORM WATER MONITORING REQUIREMENTS—Continued

Industrial activity	Section of fact sheet describing monitoring requirements	Permit section describing monitoring requirements
Automobile Salvage Yards*	VIII.M.6	XI.M.5.
Scrap and Waste Recycling Facilities*	VIII.N.6	XI.N.5.
Steam Electric Power Generating Facilities, Including Coal Handling Areas*	VIII.O.6	XI.O.5.
Vehicle Maintenance or Equipment Cleaning Areas at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and the United States Postal Service Transportation Facilities.	VIII.P.6	XI.P.5
Vehicle Maintenance Areas and/or Equipment Cleaning Operations at Water Transportation Facilities*	VIII.Q.6	XI.Q.5.
Ship and Boat Building or Repairing Yards	VIII.R.6	XI.R.5.
Vehicle Maintenance Areas, Equipment Cleaning Areas, or Deicing Areas Located at Air Transportation Facilities*.	VIII.S.6	XI.S.5.
Treatment Works*	VIII.T.6	XI.T.5.
Food and Kindred Products Facilities*	VIII.U.5	XI.U.5.
Textile Mills, Apparel, and Other Fabric Product Manufacturing Facilities*	VIII.V.6	XI.V.5.
Wood and Metal Furniture and Fixture Manufacturing Facilities	VIII.W.5	XI.W.5.
Printing and Publishing Facilities	VIII.X.7	XI.X.5.
Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries*	VIII.Y.7	XI.Y.5.
Leather Tanning and Finishing Facilities	VIII.Z.7	XI.Z.5.
Fabricated Metal Products Industry*	VIII.AA.7	XI.AA.5.
Facilities That Manufacture Transportation Equipment, Industrial, or Commercial Machinery	VIII.AB.7	XI.AB.5.
Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods.	VIII.AC.7	XI.AC.5.

* Denotes a sector that contains analytical monitoring requirements for an entire sector or a subsector.

1. Analytical Monitoring Requirements.

Today's permit requires analytical monitoring for discharges from certain classes of industrial facilities. EPA believes that industries may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of a storm water pollution prevention plan discussed in today's permit. Analytical monitoring is a means by which to measure the concentration of a pollutant in a storm water discharge. Analytical results are quantitative and therefore can be used to compare results from discharge to discharge and to quantify the improvement in storm water quality attributable to the storm water pollution prevention plan, or to identify a pollutant that is not being successfully controlled by the plan. EPA realizes there are greater cost burdens associated with analytical monitoring in comparison to visual examinations. Today's permit only requires analytical monitoring for the industry sectors or subsectors that demonstrated a potential to discharge pollutants at concentrations of concern.

To determine the industry sectors and subsectors that would be subject to analytical monitoring requirements contained in the sections listed in Table 3, EPA reviewed the data submitted in the group application process. First, EPA divided the Part 1 and Part 2 application data by the industry sectors listed in Table 3. Where a sector was found to contain a wide range of industrial activities or potential pollutant sources, it was further subdivided into the industry subsectors listed in Table 4. Next, EPA reviewed the information submitted in Part 1 of the group applications regarding the industrial activities, significant materials exposed to storm water, and the material management measures employed. This information helped identify potential pollutants that may be present in the storm water discharges. Then, EPA entered into a database, the sampling data submitted in Part 2 of the group applications. That data was arrayed according to industrial sector and subsector for the purposes of determining when analytical monitoring would be appropriate. Data received by EPA prior to January 1, 1993 (three months after the application deadline) were entered into EPA's database. Some additional data that was submitted even after January 1, 1993 was also entered into the database to bolster the data set for some sectors or subsectors (e.g., the auto salvage industry). All data submitted even later by group applicants which was not loaded into the database was reviewed by EPA during development of the permit. EPA notes that preliminary copies of the database were distributed to the public upon request in advance of a complete screening of the quality of the data set. These copies of the database contained a variety of errors that were screened and removed prior to EPA statistical analysis and evaluation of the results. The results of the statistical analyses are presented in the appropriate section of the fact sheet referenced in Table 3.

TABLE 4.—SECTOR/SUBSECTOR DIVISION OF GROUP APPLICANTS FOR ANALYSES OF SAMPLING DATA

Subsector	SIC code	Activity represented
Sector A. Timber Products		
1*	2421	General Sawmills and Planning Mills.
2	2491	Wood Preserving.
3*	2411	Log Storage and Handling.
4*	2426	Hardwood Dimension and Flooring Mills.

TABLE 4.—SECTOR/SUBSECTOR DIVISION OF GROUP APPLICANTS FOR ANALYSES OF SAMPLING DATA—Continued

Subsector	SIC code	Activity represented
	2429	Special Product Sawmills, Not Elsewhere Classified.
	243X	Millwork, Veneer, Plywood, and Structural Wood.
	244X	Wood Containers.
	245X	Wood Buildings and Mobile Homes.
	2493	Reconstituted Wood Products.
	2499	Wood Products, Not Elsewhere Classified.
Sector B. Paper and Allied Products Manufacturing		
1	261X	Pulp Mills.
2	262X	Paper Mills.
3*	263X	Paperboard Mills.
4	265X	Paperboard Containers and Boxes.
5	267X	Converted Paper and Paperboard Products, Except Containers and Boxes.
Sector C. Chemical and Allied Products Manufacturing.		
1*	281X	Industrial Inorganic Chemicals.
2*	282X	Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers Except Glass.
3	283X	Drugs.
4*	284X	Soaps, Detergents, and Cleaning Preparations; Perfumes, Cosmetics, and Other Toilet Preparations.
5	285X	Paints, Varnishes, Lacquers, Enamels, and Allied Products.
6	286X	Industrial Organic Chemicals.
7*	287X	Agricultural Chemicals.
8	289X	Miscellaneous Chemical Products.
Sector D. Asphalt Paving and Roofing Materials Manufacturers and Lubricant Manufacturers		
1*	295X	Asphalt Paving and Roofing Materials.
2	299X	Miscellaneous Products of Petroleum and Coal.
Sector E. Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing		
1	321X	Flat Glass.
	322X	Glass and Glassware, Pressed or Blown.
	323X	Glass Products Made of Purchased Glass.
2	324X	Hydraulic Cement.
3*	325X	Structural Clay Products.
	326X	Pottery and Related Products.
	3297	Non-Clay Refractories.
4*	327X	Concrete, Gypsum and Plaster Products.
	3295	Minerals and Earth's, Ground, or Otherwise Treated.
Sector F. Primary Metals		
1*	331X	Steel Works, Blast Furnaces, and Rolling and Finishing Mills.
2*	332X	Iron and Steel Foundries.
3	333X	Primary Smelting and Refining of Nonferrous Metals.
4	334X	Secondary Smelting and Refining of Nonferrous Metals.
5*	335X	Rolling, Drawing, and Extruding of Nonferrous Metals.
6*	336X	Nonferrous Foundries (Castings).
7	339X	Miscellaneous Primary Metal Products.
Sector G. Metal Mining (Ore Mining and Dressing)		
1	101X	Iron Ores.
2*	102X	Copper Ores.
3	103X	Lead and Zinc Ores.
4	104X	Gold and Silver Ores.
5	106X	Ferroalloy Ores, Except Vanadium.
6	108X	Metal Mining Services.
7	109X	Miscellaneous Metal Ores.
Sector H. Coal Mines and Coal Mining-Related Facilities		
NA*	12XX	Coal Mines and Coal Mining-Related Facilities.

TABLE 4.—SECTOR/SUBSECTOR DIVISION OF GROUP APPLICANTS FOR ANALYSES OF SAMPLING DATA—Continued

Subsector	SIC code	Activity represented
Sector I. Oil and Gas Extraction		
1*	131X	Crude Petroleum and Natural Gas.
2	132X	Natural Gas Liquids.
3*	138X	Oil and Gas Field Services.
Sector J. Mineral Mining and Dressing		
1*	141X	Dimension Stone.
	142X	Crushed and Broken Stone, Including Rip Rap.
	148X	Nonmetallic Minerals, Except Fuels.
2*	144X	Sand and Gravel.
3	145X	Clay, Ceramic, and Refractory Materials.
4	147X	Chemical and Fertilizer Mineral Mining.
Sector K. Hazardous Waste Treatment Storage or Disposal Facilities		
NA*	NA	Hazardous Waste Treatment Storage or Disposal.
Sector L. Landfills and Land Application Sites		
NA*	NA	Landfills and Land Application Sites.
Sector M. Automobile Salvage Yards		
NA*	5015	Automobile Salvage Yards.
Sector N. Scrap Recycling Facilities		
NA*	5093	Scrap Recycling Facilities.
Sector O. Steam Electric Generating Facilities		
NA*	NA	Steam Electric Generating Facilities.
Sector P. Land Transportation		
1	40XX	Railroad Transportation.
2	41XX	Local and Highway Passenger Transportation.
3	42XX	Motor Freight Transportation and Warehousing.
4	43XX	United States Postal Service.
5	5171	Petroleum Bulk Stations and Terminals.
Sector Q. Water Transportation		
NA*	44XX	Water Transportation.
Sector R. Ship and Boat Building or Repairing Yards		
NA	373X	Ship and Boat Building or Repairing Yards.
Sector S. Air Transportation Facilities		
NA*	45XX	Air Transportation Facilities.
Sector T. Treatment Works		
NA*	NA	Treatment Works.
Sector U. Food and Kindred Products		
1	201X	Meat Products.
2	202X	Dairy Products.
3	203X	Canned, Frozen and Preserved Fruits, Vegetables and Food Specialties.
4*	204X	Grain Mill Products.

TABLE 4.—SECTOR/SUBSECTOR DIVISION OF GROUP APPLICANTS FOR ANALYSES OF SAMPLING DATA—Continued

Subsector	SIC code	Activity represented
5	205X	Bakery Products.
6	206X	Sugar and Confectionery Products.
7*	207X	Fats and Oils.
8	208X	Beverages.
9	209X	Miscellaneous Food Preparations and Kindred Products.
Sector V. Textile Mills, Apparel, and Other Fabric Product Manufacturing		
1	22XX	Textile Mill Products.
2	23XX	Apparel and Other Finished Products Made From Fabrics and Similar Materials.
Sector W. Furniture and Fixtures		
NA	25XX	Furniture and Fixtures.
	2434	Wood Kitchen Cabinets.
Sector X. Printing and Publishing		
NA	27XX	Printing and Publishing.
Sector Y. Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries		
1*	301X	Tires and Inner Tubes.
	302X	Rubber and Plastics Footwear.
	305X	Gaskets, Packing, and Sealing Devices and Rubber and Plastics Hose and Belting.
	306X	Fabricated Rubber Products, Not Elsewhere Classified.
2	308X	Miscellaneous Plastics Products.
	393X	Musical Instruments.
	394X	Dolls, Toys, Games and Sporting and Athletic Goods.
	395X	Pens, Pencils, and Other Artists' Materials.
	396X	Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, Except Precious Metal.
	399X	Miscellaneous Manufacturing Industries.
Sector Z. Leather Tanning and Finishing		
NA	311X	Leather Tanning and Finishing.
Sector AA. Fabricated Metal Products		
1*	342X	Cutlery, Handtools, and General Hardware.
	344X	Fabricated Structural Metal Products.
	345X	Screw Machine Products, and Bolts, Nuts, Screws, Rivets, and Washer.
	346X	Metal Forgings and Stampings.
	3471	Electroplating, Plating, Polishing, Anodizing, and Coloring.
	349X	Miscellaneous Fabricated Metal Products.
	391X	Jewelry, Silverware, and Plated Ware.
2*	3479	Coating, Engraving, and Allied Services.
Sector AB. Transportation Equipment, Industrial or Commercial Machinery		
NA	35XX	Industrial and Commercial Machinery.
Sector AC. Electronic, Electrical, Photographic and Optical Goods		
NA	36XX	Electronic, Electrical.
	38XX	Measuring, Analyzing and Controlling Instrument; Photographic and Optical Goods.

*Denotes subsector with analytical (chemical) monitoring requirements.
NA indicated those industry sectors in which subdivision into subsectors was determined to be not applicable.

To conduct a comparison of the results of the statistical analyses to determine when analytical monitoring would be required, EPA established "benchmark" concentrations for the pollutant parameters on which monitoring results had been received. The "benchmarks" are the pollutant concentrations above which EPA determined represents a level of concern. The level of concern is a concentration at which a storm water discharge could potentially impair, or contribute to impairing water quality or affect human health from ingestion of

water or fish. The benchmarks are also viewed by EPA as a level, that if below, a facility represents little potential for water quality concern. As such, the benchmarks also provide an appropriate level to determine whether a facility's storm water pollution prevention measures are successfully implemented. The benchmark concentrations are not effluent limitations and should not be interpreted or adopted as such. These values are merely levels which EPA has used to determine if a storm water discharge from any given facility merits further monitoring to insure that the facility has been successful in implementing a storm water pollution prevention plan. As such these levels represent a target concentration for a facility to achieve through implementation of pollution prevention measures at the facility. Table 5 lists the parameter benchmark values.

As can be seen in Table 5, benchmark concentrations were determined based upon a number of existing standards or other sources to represent a level above which water quality concerns could arise. EPA has also sought to develop values which can realistically be measured and achieved by industrial facilities. Moreover, storm water discharges with pollutant concentrations occurring below these levels would not warrant further analytical monitoring due to their de minimis potential effect on water quality.

The primary source of benchmark concentrations is EPA's National Water Quality Criteria, published in 1986 (often referred to as the "Gold Book"). For the majority of the benchmarks, EPA chose to use the acute aquatic life, fresh water ambient water quality criteria. These criteria represent maximum concentration values for a pollutant, above which, could cause acute effects on aquatic life such as mortality in a short period of time. Where acute criteria values were not available, EPA used the lowest observed effect level (LOEL) acute fresh water value. The LOEL values represent the lowest concentration of a pollutant that results in an adverse effect over a short period of time. These two acute freshwater values were selected as benchmark concentrations if the value was not below the approved method detection limit as listed in 40 CFR Part 136 and the value was not substantially above the concentration which EPA believes a facility can attain through the implementation of a storm water pollution prevention plan. These acute freshwater values best represent, on a national basis, the highest concentrations at which typical fresh water species can survive exposures of pollutants for short durations (i.e., a storm discharge event).

Acute freshwater criteria do not exist for a number of parameters on which EPA received data. For these parameters, EPA selected benchmark values from several other references. The benchmark concentrations for five day biochemical oxygen demand (BOD_5) and for pH are determined based upon the secondary wastewater treatment regulations (40 CFR 133.102). EPA believes that the BOD_5 value of 30 mg/L is a reasonable concentration below which adverse effects in receiving waters under wet weather flow conditions should not occur. EPA also believes, that given group application data on BOD_5, this value should be readily achievable by industrial storm water dischargers. The benchmark value for pH is a range of 6.0–9.0 standard units. EPA believes this level, given the group application data, is reasonably achievable by industrial storm water dischargers and represents and acceptable range within which aquatic life impacts will not occur. The benchmark concentration for chemical oxygen demand (COD) is based upon the State of North Carolina benchmark values for storm water discharges, and is a factor of four times the BOD_5 benchmark concentration. EPA has concluded that COD is generally discharged in domestic wastewater at four times the concentration of BOD_5 without causing adverse impacts on aquatic life. EPA selected the median concentration from the National Urban Runoff Program as the benchmark for total suspended solids (TSS) and for nitrate plus nitrite as nitrogen. EPA believes the median concentration, which is the mid-point concentration (half the samples are above this level and half are below) represents concentration above which water quality concerns may result. For TSS a value of 100mg/L is similar to the storm water benchmark used by North Carolina for storm water permits, and given the group application data, should be readily achievable by industry with implementation of BMPs, many of which are designed for the purpose of controlling TSS. EPA also believes, given the group application data, that there is a relationship between TSS and the amount of exposed industrial activity and that industrial activities even in arid western States should be able to implement BMPs that will accomplish this benchmark. EPA selected the storm water effluent limitation guideline for petroleum refining facilities as the benchmark for oil and grease. Given the lack of an acute criteria, EPA selected the chronic fresh water quality criteria as the benchmark for iron. Water quality criteria for waterbodies in the State of North Carolina were used to determine benchmarks for total phosphorus and for fluoride. The concentration value for phosphorus was designed to prevent eutrophication of fresh waterbodies from storm water runoff. The fluoride value was designed by North Carolina to be protective of water quality, as was the manganese value developed by Colorado. EPA believes that each of these benchmark values represent a reasonable level below which water quality impacts should not occur and they therefore represent a useful level to assess whether a pollution prevention plan is controlling pollution in storm water discharges.

For several other parameters, EPA chose a benchmark value base on a numerical adjustment of the acute fresh water quality criteria. Where the acute water quality criteria was below the method detection level for a pollutant, EPA used the "minimum level" (ML) as the benchmark concentration to ensure that the benchmark levels could be measured by permittees. For a few pollutants minimum levels have been published and these were used. For other pollutants, minimum levels need to be calculated. EPA calculated the minimum levels using the methodology described in the draft "National Guidance for the Permitting, Monitoring, and Enforcement of Water Quality-based Effluent Limitations Set Below Analytical Detection/Quantitation Levels" (Michael Cook, OWEC, March 18, 1994).

Additionally, several organic compounds (ethylbenzene, fluoranthene, toluene, and trichloroethylene) have acute fresh water quality criteria at substantially high concentrations, much higher than criteria developed for the protection of human health when ingesting water or fish. In addition, trichloroethylene is a human carcinogen. Therefore, EPA selected the human health criteria as benchmarks for these parameters. For dimethyl phthalate and total phenols, EPA selected benchmark concentrations based upon existing discharge limitations and compliance data (no industry had median concentrations above the selected benchmark for these parameters and therefore no industry sector is required to monitor for these two pollutants).

EPA conducted statistical analyses of the group Part 2 data for each parameter within every industry sector or subsector listed in Table 5. The

pollutants, benchmark values, and source of the benchmark values are indicated below in Table 5.

TABLE 5.—PARAMETER BENCHMARK VALUES

Parameter name	Benchmark level	Source
Biochemical Oxygen Demand(5)	30 mg/L	4
Chemical Oxygen Demand	120 mg/L	5
Total Suspended Solids	100 mg/L	7
Oil and Grease	15 mg/L	8
Nitrate + Nitrite Nitrogen	0.68 mg/L	7
Total Phosphorus	2.0 mg/L	6
pH	6.0–9.0 s.u.	4
Acrylonitrile (c)	7.55 mg/L	2
Aluminum, Total (pH 6.5–9)	0.75 mg/L	1
Ammonia	19 mg/L	1
Antimony, Total	0.636 mg/L	9
Arsenic, Total (c)	0.16854 mg/L	9
Benzene	0.01 mg/L	10
Beryllium, Total (c)	0.13 mg/L	2
Butylbenzyl Phthalate	3 mg/L	3
Cadmium, Total (H)	0.0159 mg/L	9
Chloride	860 mg/L	1
Copper, Total (H)	0.0636 mg/L	9
Dimethyl Phthalate	1.0 mg/L	11
Ethylbenzene	3.1 mg/L	3
Fluoranthene	0.042 mg/L	3
Fluoride	1.8 mg/L	6
Iron, Total	1.0 mg/L	12
Lead, Total (H)	0.0816 mg/L	1
Manganese	1.0 mg/L	13
Mercury, Total	l0.0024 mg/L	1
Nickel, Total (H)	1.417 mg/L	1
PCB–1016 (c)	0.000127 mg/L	9
PCB–1221 (c)	0.10 mg/L	10
PCB–1232 (c)	0.000318 mg/L	9
PCB–1242 (c)	0.00020 mg/L	10
PCB–1248 (c)	0.002544 mg/L	9
PCB–1254 (c)	0.10 mg/L	10
PCB–1260 (c)	0.000477 mg/L	9
Phenols, Total	1.0 mg/L	11
Pyrene (PAH,c)	0.01 mg/L	10
Selenium, Total (*)	0.2385 mg/L	9
Silver, Total (H)	0.0318 mg/L	9
Toluene	10.0 mg/L	3
Trichloroethylene (c)	0.0027 mg/L	3
Zinc, Total (H)	0.065 mg/L	1

Sources:
1. "EPA Recommended Ambient Water Quality Criteria." Acute Aquatic Life Freshwater.
2. "EPA Recommended Ambient Water Quality Criteria." LOEL Acute Freshwater.
3. "EPA Recommended Ambient Water Quality Criteria." Human Health Criteria for Consumption of Water and Organisms.
4. Secondary Treatment Regulations (40 CFR 133).
5. Factor of 4 times BOD5 concentration—North Carolina benchmark.
6. North Carolina storm water benchmark derived from NC Water Quality Standards.
7. National Urban Runoff Program (NURP) median concentration.
8. Median concentration of Storm Water Effluent Limitation Guideline (40 CFR Part 419).
9. Minimum Level (ML) based upon highest Method Detection Limit (MDL) times a factor of 3.18.
10. Laboratory derived Minimum Level (ML).
11. Discharge limitations and compliance data.
12. "EPA Recommended Ambient Water Quality Criteria." Chronic Aquatic Life Freshwater.
13. Colorado—Chronic Aquatic Life Freshwater—Water Quality Criteria.

Notes:
(*) Limit established for oil and gas exploration and production facilities only.
(c) carcinogen.
(H) hardness dependent.
(PAH) Polynuclear Aromatic Hydrocarbon.
Assumptions:
Receiving water temperature—20 C.
Receiving water pH—7.8.
Receiving water hardness CaCO3 100 mg/L.
Receiving water salinity 20 g/kg.
Acute to Chronic Ratio (ACR)—10.

EPA prepared a statistical analysis of the sampling data for each pollutant parameter reported within each sector or subsector. (Only where EPA did not subdivide an industry sector into subsectors was an analysis of the entire

sector's data performed.) The statistical analysis was performed assuming a delta log normal distribution of the sampling data within each sector/subsector. The analyses calculated median, mean, maximum, minimum, 95th, and 99th percentile concentrations for each parameter. The results of the analyses may be found in the appropriate section of Part VIII of this Fact Sheet. From this analysis, EPA was able to identify pollutants for further evaluation within each sector or subsector.

EPA next compared the median concentration for each pollutant for each sector or subsector to the benchmark concentrations listed in Table 5. EPA also compared the other statistical results to the benchmarks to better ascertain the magnitude and range of the discharge concentrations to help identify the pollutants of concern. EPA did not conduct this analysis if a sector had data for a pollutant from less than three individual facilities. Under these circumstances, the sector or subsector would not have this pollutant identified as a pollutant of concern. This was done to ensure that a reasonable number of facilities represented the industry sector or subsector as a whole and that the analysis did not rely on data from only one facility.

For each industry sector or subsector, parameters with a median concentration higher than the benchmark level were considered pollutants of concern for the industry and identified as potential pollutants for analytical monitoring under today's permit. EPA then analyzed the list of potential pollutants to be monitored against the lists of significant materials exposed and industrial activities which occur within each industry sector or subsector as described in the part I application information. Where EPA could identify a source of a potential pollutant which is directly related to industrial activities of the industry sector or subsector, the permit identifies that parameter for analytical monitoring. If EPA could not identify a source of a potential pollutant which was associated with the sector/subsector's industrial activity, the permit does not require monitoring for the pollutant in that sector/subsector. Industries with no pollutants for which the median concentrations are higher than the benchmark levels are not required to perform analytical monitoring under this permit, with the exceptions explained below.

In addition to the sectors and subsectors identified for analytical monitoring using the methods described above, EPA determined, based upon a review of the degree of exposure, types of materials exposed, special studies and in some cases inadequate sampling data in the group applications, that industries in the following sections of today's fact sheet also warrant analytical monitoring not withstanding the absence of data on the presence or absence of certain pollutants in the group applications: VIII.K.7 (hazardous waste treatment storage and disposal facilities), and VIII.S.6 (airports which use more than 100,000 gallons per year of glycol-based fluids or 100 tons of urea for deicing). These industries are required to perform analytical monitoring under the permit due to the high potential for contamination of storm water discharge, which EPA believes was not adequately characterized by group applicants in the information they provided in the group application process.

All facilities within an industry sector or subsector identified for analytical monitoring must, at a minimum, monitor their storm water discharges during the second year of permit coverage, unless the facility exercises the Alternative Certification described in Section VI.E.3 of this fact sheet. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter for which the facility is required to monitor. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed. Monitoring must be conducted for the same storm water discharge outfall in each sampling period. Where a given storm water discharge is addressed by more than one sector/subsector's monitoring requirements, then the monitoring requirements for the applicable sector's/subsector's activities are cumulative. Therefore, if a particular discharge fits under more than one set of monitoring requirements, the facility must comply with all sets of sampling requirements. Monitoring requirements must be evaluated on an outfall-by-outfall basis.

If the average concentration for a pollutant parameter is less than or equal to the benchmark value, then the permittee is not required to conduct analytical monitoring for that pollutant during the fourth year of the permit. If, however, the average concentration for a pollutant is greater than the benchmark value, then the permittee is required to conduct quarterly monitoring for that pollutant during the fourth year of permit coverage. Analytical monitoring is not required during the first, third, and fifth year of the permit. The exclusion from analytical monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit.

2. Compliance Monitoring

In addition to the analytical monitoring requirements for certain sectors, today's permit contains monitoring requirements for discharges which are subject to effluent limitations. These discharges must be sampled annually and tested for the parameters which are limited by the permit. Discharges subject to compliance monitoring include: coal pile runoff, contaminated runoff from phosphate fertilizer manufacturing facilities, runoff from asphalt paving and roofing emulsion production areas, material storage pile runoff from cement manufacturing facilities, and mine dewatering discharges from crushed stone, construction sand and gravel, and industrial sand mines located in Texas, Louisiana, Oklahoma, New Mexico, and Arizona. All samples are to be grabs taken within the first 30 minutes of discharge where practicable, but in no case later than the first hour of discharge. Where practicable, the samples shall be taken from the discharges subject to the numeric effluent limitations prior to mixing with other discharges.

Monitoring for these discharges is required to determine compliance with numeric effluent limitations. Furthermore, discharges covered under today's permit which are subject to numeric effluent limitations are not eligible for the alternative certification in Part VI.E.3. of this fact sheet.

3. Alternate Certification

Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative certification described below is included in the permit to ensure that monitoring requirements are only imposed on those facilities which do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if there are no sources of a pollutant exposed to storm water at the site then the potential for that pollutant to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the analytical monitoring

requirements provided the discharger makes a certification for a given outfall, on a pollutant-by-pollutant basis, that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in lieu of monitoring reports required under Part XI of the permit. The permittee is required to complete any and all sampling until the exposure is eliminated. If the facility is reporting for a partial year, the permittee must specify the date exposure was eliminated. If the permittee is certifying that a pollutant was present for part of the reporting period, nothing relieves the permittee from the responsibility to sample that parameter up until the exposure was eliminated and it was determined that no significant materials remained. This certification is not to be confused with the low concentration sampling waiver. The test for the application of this certification is whether the pollutant is exposed, or can be expected to be present in the storm water discharge. If the facility does not and has not used a parameter, or if exposure is eliminated and no significant materials remain, then the facility can exercise this certification.

The permit does not allow facilities with discharges subject to numeric effluent limitations to submit alternative certification in lieu of the compliance monitoring requirements in Sections VI.C., XI.C.6., XI.D.5., XI.E.5., and XI.J.5. The permit also does not allow air transportation facilities subject to the analytical monitoring requirements under Section XI.S.5. to exercise an alternative certification.

A facility is not precluded from exercising the alternative certification in lieu of analytical monitoring requirements in the fourth year of permit coverage, even if that facility failed to qualify for a low concentration waiver in year two. EPA encourages facilities to eliminate exposure of industrial activities and significant materials where practicable.

4. Reporting and Retention Requirements

Permittees are required to submit all analytical monitoring results obtained during the second and fourth year of permit coverage within three months of the conclusion of the second and fourth year of coverage of the permit. For each outfall, one Discharge Monitoring Report Form must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum requirements an additional Discharge Monitoring Report Form must be filed for each analysis. The permittee must include a measurement or estimate of the total precipitation, volume of runoff, and peak flow rate of runoff for each storm event sampled. Permittees subject to compliance monitoring requirements are required to submit all compliance monitoring results annually on the 28th day of the month following the anniversary of the publication of this permit. Compliance monitoring results must be submitted on signed Discharge Monitoring Report Forms. For each outfall, one Discharge Monitoring Report form must be submitted for each storm event sampled.

Permittees are not required to submit records of the visual examinations of storm water discharges unless specifically asked to do so by the Director. Records of the visual examinations must be maintained at the facility. Records of visual examination of storm water discharge need not be lengthy. Permittees may prepare typed or hand written reports using forms or tables which they may develop for their facility. The report need only document: the date and time of the examination; the name of the individual making the examination; and any observations of color, odor, clarity, floating solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution.

The location for submittal of all reports is contained in the permit. Consistent with Office of Management and Budget Circular A–105, facilities located on the following Federal Indian Reservations, which cross EPA Regional boundaries, should note that permitting authority for such lands is consolidated in one single EPA Region.

a. Duck Valley Reservations lands, located in Regions IX and X, are handled by Region IX.

b. Fort McDermitt Reservation lands, located in Regions IX and X, are handled by Region IX.

c. Goshute Reservation lands, located in Regions VIII and IX, are handled by Region IX.

d. Navajo Reservation lands, located in Regions VI, VIII, and IX, are handled by Region IX.

e. Ute Mountain Reservation lands, located in Regions VI and VIII, are handled Region VIII (no areas in Region VIII are receiving coverage under this permit).

Pursuant to the requirements of 40 CFR 122.41(j), today's permit requires permittees to retain all records for a minimum of 3 years from the date of the sampling, examination, or other activity that generated the data.

5. Sample Type

The discussion below is a general description of the sample type required for monitoring under today's permit. Certain industries have different requirements, however, so permittees should check the industry-specific requirements in Part XI. of today's permit to confirm these requirements. Grab samples may be used for all monitoring unless otherwise stated. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval may be waived by the permittee where the preceding measurable storm event did not result in a measurable discharge from the facility. The 72-hour requirement may also be waived by the permittee where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample must be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger must submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. A minimum of one grab is required. Where the discharge to be sampled contains both storm water and non-storm water, the facility shall sample the storm water component of the discharge at a point upstream of the location where the non-storm water mixes with the storm water, if practicable.

6. Representative Discharge

The permit allows permittees to use the substantially identical outfalls to reduce their monitoring burden. This representative discharge provision provides facilities with multiple storm water outfalls, a means for reducing the number of outfalls that must be sampled and analyzed. This may result in a substantial reduction of the resources required for a facility to comply with analytical monitoring requirements. When a facility has two or more outfalls

that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40 percent), medium (40 to 65 percent) or high (above 65 percent)) shall be provided in the plan. Facilities that select and sample a representative discharge are prohibited from changing the selected discharge in future monitoring periods unless the selected discharge ceases to be representative or is eliminated. Permittees do not need EPA approval to claim discharges are representative, provided they have documented their rationale within the storm water pollution prevention plan. However, the Director may determine the discharges are not representative and require sampling of all non-identical outfalls.

The representative discharge provision in the permit is available to almost all facilities subject to the analytical monitoring requirements (not including compliance monitoring for effluent guideline limit compliance purposes) and to facilities subject to visual examination requirements.

The representative discharge provisions described above are consistent with Section 5.2 of NPDES Storm Water Sampling Guidance Document (EPA 833–B–92–001, July 1992).

7. Sampling Waiver

a. Adverse Weather Conditions. The permit allows for temporary waivers from sampling based on adverse climatic conditions. This temporary sampling waiver is only intended to apply to insurmountable weather conditions such as drought or dangerous conditions such as lightning, flash flooding, or hurricanes. These events tend to be isolated incidents and should not be used as an excuse for not conducting sampling under more favorable conditions associated with other storm events. The sampling waiver is not intended to apply to difficult logistical conditions, such as remote facilities with few employees or discharge locations which are difficult to access. When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next sampling period as well as a sample for the routine monitoring required in that period. Both samples should be analyzed separately and the results of that analysis submitted to EPA. Permittees are not required to obtain advance approval for sampling waivers.

b. Unstaffed and Inactive Sites—Chemical Waiver. The permit allows for a waiver from sampling for facilities that are both inactive and unstaffed. This waiver is only intended to apply to these types of facilities when the ability to conduct sampling would be severely hindered and result in the inability to meet the time and representative rainfall sampling specifications. This sampling waiver is not intended to apply to remote facilities that are active and staffed, or typical difficult logistical conditions. When a discharger is unable to collect samples as specified in this permit, the discharger shall certify to the Director in the DMR that the facility is unstaffed and inactive and the ability to conduct samples within the specifications is not possible. Permittees are not required to obtain advance approval for this waiver.

c. Unstaffed and Inactive Sites—Visual Waiver. The permit allows for a waiver from sampling for facilities that are both inactive and unstaffed. This waiver is only intended to apply to these types of facilities when the ability to conduct visual examinations would be severely hindered and result in the inability to meet the time and representative rainfall sampling specifications. This sampling waiver is not intended to apply to remote facilities that are active and staffed, or typical difficult logistical conditions. When a discharger is unable to perform visual examinations as specified in this permit, the discharger shall maintain on site with the pollution prevention plan a certification stating that the facility is unstaffed and inactive and the ability to perform visual examinations within the specifications is not possible. Permittees are not required to obtain advance approval for visual examination waivers.

8. Quarterly Visual Examination of Storm Water Quality

In order to provide a tool for evaluating the effectiveness of the pollution prevention plan, the permit requires the majority of industries covered under today's permit to perform quarterly visual examinations of storm water discharges. EPA believes these visual examinations will assist with the evaluation of the pollution prevention plan. This section provides a general description of the monitoring and reporting requirements under today's permit. The visual examination provides a simple, low cost means of assessing the quality of storm water discharge with immediate feedback. Most facilities covered under today's permit are required to conduct a quarterly visual examination of storm water discharges associated with industrial activity from each outfall, except discharges exempted under the representative discharge provision. The visual examination of storm water outfalls should include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, or other obvious indicators of storm water pollution. No analytical tests are required to be performed on these samples.

The examination of the sample must be made in well lit areas. The visual examination is not required if there is insufficient rainfall or snow-melt to runoff or if hazardous conditions prevent sampling. Whenever practicable the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible in recording observations. Grab samples for the examination shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained on site with the pollution prevention plan.

When conducting a storm water visual examination, the pollution prevention team, or team member, should attempt to relate the results of the examination to potential sources of storm water contamination on the site. For example, if the visual examination reveals an oil sheen, the facility personnel (preferably members of the pollution prevention team) should conduct an inspection of the area of the site draining to the examined discharge to look for obvious sources of spilled oil, leaks, etc. If a source can be located, then this information allows the facility

operator to immediately conduct a clean-up of the pollutant source, and/or to design a change to the pollution prevention plan to eliminate or minimize the contaminant source from occurring in the future.

To be most effective, the personnel conducting the visual examination should be fully knowledgeable about the storm water pollution prevention plan, the sources of contaminants on the site, the industrial activities conducted exposed to storm water and the day to day operations that may cause unexpected pollutant releases.

Other examples include; if the visual examination results in an observation of floating solids, the personnel should carefully examine the solids to see if they are raw materials, waste materials or other known products stored or used at the site. If an unusual color or odor is sensed, the personnel should attempt to compare the color or odor to the colors or odors of known chemicals and other materials used at the facility. If the examination reveals a large amount of settled solids, the personnel may check for unpaved, unstabilized areas or areas of erosion. If the examination results in a cloudy sample that is very slow to settle-out, the personnel should evaluate the site draining to the discharge point for fine particulate material, such as dust, ash, or other pulverized, ground, or powdered chemicals.

If the visual examination results in a clean and clear sample of the storm water discharge, this may indicate that no visible pollutants are present. This would be a indication of a high quality result, however, the visual examination will not provide information about dissolved contamination. If the facility is in a sector or subsector required to conduct analytical (chemical) monitoring, the results of the chemical monitoring, if conducted on the same sample, would help to identify the presence of any dissolved pollutants and the ultimate effectiveness of the pollution prevention plan. If the facility is not required to conduct analytical monitoring, it may do so if it chooses to confirm the cleanliness of the sample.

While conducting the visual examinations, personnel should constantly be attempting to relate any contamination that is observed in the samples to the sources of pollutants on site. When contamination is observed, the personnel should be evaluating whether or not additional BMPs should be implemented in the pollution prevention plan to address the observed contaminant, and if BMPs have already been implemented, evaluating whether or not these are working correctly or need maintenance. Permittees may also conduct more frequent visual examinations than the minimum quarterly requirement, if they so choose. By doing so, they may improve their ability to ascertain the effectiveness of their plan. Using this guidance, and employing a strong knowledge of the facility operations, EPA believes that permittees should be able to maximize the effectiveness of their storm water pollution prevention efforts through conducting visual examinations which give direct, frequent feedback to the facility operator or pollution prevention team on the quality of the storm water discharge.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. EPA recommends that the visual examination be conducted at different times than the chemical monitoring, but is not requiring this. In addition, more frequent visual examinations can be conducted if the permittee so chooses. In this way, better assessments of the effectiveness of the pollution prevention plan can be achieved. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the site's storm water problems and the effects of the management practices that are included in the plan.

9. SARA Title III, Section 313 Facilities

Today's permit does not contain special monitoring requirements for facilities subject to the Toxic Release Inventory (TRI) reporting requirements under Section 313 of the EPCRA. EPA has reviewed data submitted by facilities in the group application and determined that storm water monitoring requirements are more appropriately based upon the industrial activity or significant material exposed than upon a facility's status as a TRI reporter under Section 313 of EPCRA. This determination is based upon a comparison of the data submitted by TRI facilities included in the group application process to data from group application sampling facilities that were not found on the TRI list. Table 6 summarizes the data comparison. The data indicate that there are no consistent differences in the level of water priority chemicals present in samples from TRI facilities when compared to the samples from facilities not subject to TRI reporting requirements.

EPA has included a revised Appendix A that lists 44 additional water priority chemicals that meet the definition of a section 313 water priority chemical or chemical categories requirements as defined by EPA in the permit under Part X, Definitions.

TABLE 6.—COMPARISON OF POLLUTANT CONCENTRATION IN GRAB SAMPLES

Pollutant	Non-TRI facility median concen-tration (mg/L)	TRI facility median concen-tration (mg/L)	Non-TRI facility mean concen-tration (mg/L)	TRI facility mean concen-tration (mg/L)	Non-TRI facility 95th percentile concen-tration (mg/L)	TRI facility 95th percentile concen-tration (mg/L)
Acrylonitrile	0.100	0.000	0.085	0.000	0.100	0.000
Aluminum	0.922	0.819	12.061	28.893	58.000	12.000
Ammonia	0.640	0.000	10.507	23.231	9.500	17.200
Antimony	0.000	0.000	0.603	0.014	2.096	0.078
Arsenic	0.000	0.000	0.231	0.008	0.170	0.033
Benzene	0.000	0.000	0.001	0.000	0.001	0.000
Beryllium	0.001	0.000	0.002	0.080	0.007	0.400
Butylbenzyl phthalate	0.000	0.000	0.007	0.000	0.018	0.000
Cadmium	0.000	0.000	0.014	0.030	0.050	0.028
Chlorine	0.000	0.000	1.590	0.052	11.000	0.300

TABLE 6.—COMPARISON OF POLLUTANT CONCENTRATION IN GRAB SAMPLES—Continued

Pollutant	Non-TRI facility median concentration (mg/L)	TRI facility median concentration (mg/L)	Non-TRI facility mean concentration (mg/L)	TRI facility mean concentration (mg/L)	Non-TRI facility 95th percentile concentration (mg/L)	TRI facility 95th percentile concentration (mg/L)
Chloroform	0.000	0.000	0.083	0.001	0.022	0.006
Chromium	0.006	0.000	1.236	0.109	0.250	0.270
Copper	0.047	0.028	1.430	0.344	2.200	1.300
Cyanide	0.000	0.000	0.021	0.007	0.008	0.020
Di-n-butyl phthalate	0.000	0.000	0.005	0.168	0.014	1.595
Dimethyl phthalate	0.000	0.000	0.005	0.000	0.016	0.000
Ethylbenzene	0.000	0.000	0.000	0.000	0.001	0.005
Hexavalent chromium	0.000	0.000	0.001	0.003	0.002	0.011
Lead	0.020	0.006	0.556	0.480	1.900	1.100
Manganese	0.150	0.090	2.015	0.273	9.550	1.244
Mercury	0.000	0.000	0.530	0.006	0.001	0.005
Naphthalene	0.000	0.000	2.998	0.001	24.000	0.013
Nickel	0.020	0.000	0.087	0.311	0.390	0.458
Phenols	0.000	0.000	0.063	0.019	0.100	0.075
Selenium	0.000	0.000	0.262	0.000	0.020	0.001
Silver	0.000	0.000	0.034	0.001	0.006	0.010
Toluene	0.000	0.000	0.052	0.011	0.037	0.009
Trichloroethylene	0.000	0.000	0.004	0.040	0.001	0.050
1,1,1-Trichloroethane	0.000	0.000	0.004	0.460	0.015	6.000
Xylene	0.000	0.000	0.000	0.004	0.003	0.037
Zinc	0.320	0.250	3.761	1.720	8.800	5.140

F. Numeric Effluent Limitations

1. Industry-specific Limitations

Part XI. of today's permit contains numeric effluent limitations for phosphate fertilizer manufacturing facilities, asphalt emulsion manufacturers, cement manufacturers, coal pile runoff from steam electric power generating facilities, and sand, gravel, and crushed stone quarries. These limitations are required under EPA's storm water effluent limitation guidelines in the Code of Federal Regulations at 40 CFR Part 418, Part 443, Part 411, Part 423, and Part 436. Parts VIII.C.6., VIII.D.5., VIII.E.6., and VIII.J.5. of this fact sheet discuss these limitations.

2. Coal Pile Runoff

Today's permit establishes effluent limitations of 50 mg/L total suspended solids and a pH range of 6.0–9.0 for coal pile runoff. Any untreated overflow from facilities designed, constructed, and operated to treat the volume of coal pile runoff associated with a 10-year, 24-hour rainfall event is not subject to the 50 mg/L limitation for total suspended solids. Steam electric generating facilities must comply with these limitations upon submittal of the NOI. EPA has adopted these technology-based pH limitations in today's general permit in accordance with setting limits on a case-by-case basis as allowed under 40 CFR 125.3 and Section 402 of the Clean Water Act. These case-by-case limits are derived by transferring the known achievable technology from an effluent guideline to a similar type of discharge. When developing these technology-based limitations, variables such as rainfall pH, sizes of coal piles, pollutant characteristics, and runoff volume were considered. Therefore, these variables need not be considered again. As discussed above, these pH limitations are technology-based and are not based on water quality. All other types of facilities must comply with this requirement as expeditiously as practicable, but in no event later than 3 years from the date of permit issuance.

The pollutants in coal pile runoff can be classified into specific types according to chemical characteristics. Each type relates to the pH of the coal pile drainage. The pH tends to be of an acidic nature, primarily as a result of the oxidation of iron sulfide in the presence of oxygen and water. The potential influence of pH on the ability of toxic and heavy metals to leach from coal piles is of particular concern. Many of the metals are amphoteric with regard to their solubility behavior. These factors affect acidity, pH, and the subsequent leaching of trace metals: concentration and form of pyritic sulfur in coal; size of the coal pile; method of coal preparation and clearing prior to storage; climatic conditions, including rainfall and temperature; concentrations of calcium carbonate and other neutralizing substances in the coal; concentration and form of trace metals in the coal; and the residence time of water in the coal pile.

Coal piles can generate runoff with low pH values, with the acid values being quite variable. The suspended solids levels can be significant, with levels of 2,500 mg/L not uncommon. Metals present in the greatest concentrations are copper, iron, aluminum, nickel, and zinc. Others present in trace amounts include chromium, cadmium, mercury, arsenic, selenium, and beryllium [14].

G. Regional Offices

1. Notice of Intent Address

Notices of Intent to be authorized to discharge under this permit should be sent to: NOI/NOT Processing Center (4203), 401 M Street, S.W., Washington, DC 20460.

2. Address for Other Submittals

Other submittals of information required under this permit or individual permit applications should be sent to the appropriate EPA Regional Office:

a. ME, MA, NH, Federal Indian Reservations in CT, MA, NH, ME, RI, and Federal Facilities in VT

EPA, Region I, Water Management Division, (WCP), Storm Water Staff, JFK Federal Building, Boston, MA 02203

b. PR and Federal Facilities in PR

[14] A more complete description of pollutants in coal pile runoff is provided in the "Final Development Document for Effluent Limitations Guidelines and Standards and Pretreatment Standards for the Steam Electric Point Source Category," (EPA–440/1–82/029), EPA, November 1982.

EPA, Region II, Water Management Division, (2WM-WPC), Storm Water Staff, 290 Broadway, New York, NY 10007–1866

c. DC and Federal Facilities in DC and DE

EPA, Region III, Water Management Division, (3WM55), Storm Water Staff, 841 Chestnut Building, Philadelphia, PA 19107

d. FL

EPA, Region IV, Water Management Division, Permits Section (WPEB–7), 345 Courtland Street, NE, Atlanta, GA 30365

e. LA, NM, OK, and TX and Federal Indian Reservations in LA, NM (Except Navajo and Ute Mountain Reservation Lands), OK, and TX

EPA, Region VI, Water Management Division, (6W–EA), EPA SW MSGP, P.O. Box 50625, Dallas, TX 75202

f. AZ, Johnston Atoll, Midway Island, Wake Island, all Federal Indian Reservations in AZ, CA, and NV; those portions of the Duck Valley, Fort McDermitt, and Goshute Reservations that are outside NV; those portions of the Navajo Reservation that are outside AZ; and Federal facilities in AZ, Johnston Atoll, Midway Island, and Wake Island.

EPA, Region IX, Water Management Division, (W–5–3), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105

g. ID, OR, and WA; Federal Indian Reservations in AK, ID (except the Duck Valley Reservation), OR (except the Fort McDermitt Reservation), and WA; and Federal facilities in ID, and WA

EPA, Region X, Water Division, (WD–134), Storm Water Staff, 1200 Sixth Avenue, Seattle, WA 98101

H. Compliance Deadlines

For most permittees, today's permit imposes a deadline of 270 days following date of publication of this permit for development of pollution prevention plans and for compliance with the terms of the plan.

Today's general permit provides additional time if constructing structural best management practices is called for in the plan. The portions of a plan addressing these BMP construction requirements must provide for compliance with the plan as soon as practicable, but in no case later than 3 years from the effective date of the permit. However, storm water pollution prevention plans for facilities subject to these additional requirements must be prepared within 270 days of the date of publication of this permit and provide for compliance with the baseline terms and conditions of the permit (other than the numeric effluent limitation) as expeditiously as practicable, but in no case later than 270 days after the publication date of this permit.

Facilities are not required to submit the pollution prevention plans for review unless they are requested by EPA or by the operator of a large or medium municipal separate storm sewer system. When a plan is reviewed by EPA, the Director can require the permittee to amend the plan if it does not meet the minimum permit requirements.

VII. Cost Estimates for Common Permit Requirements

The conditions of today's general permit reflects the baseline permit requirements established in EPA's NPDES permits for Storm Water Discharges Associated With Industrial Activity (57 FR 41175 and 57 FR 44412). The requirements found under today's permit are more specific to the conditions found in the industries. EPA does not consider these requirements to be more costly than the pollution prevention plan requirements established in the baseline general permit. The following section contains the estimates of the cost of compliance with the baseline permit requirements.

A. Pollution Prevention Plan Implementation

Storm water pollution prevention plans for the majority of facilities will include relatively low cost baseline controls. EPA's analysis of storm water pollution prevention plans indicates that the cost of developing and implementing these plans is variable and will depend on a number of the following factors: the size of the facility, the type and amount of significant materials stored or used at a facility, the nature of the plant operations, the plant designs (e.g., the processes used and layout of a plan), and the extent to which housekeeping measures are already employed. Table 7 provides estimates of the range of costs for preparing and implementing the common requirements for a storm water pollution prevention plan. It is expected that the low cost estimates provided in Table 7 are appropriate for the majority of smaller facilities. The high cost estimates in Table 7 are more applicable to larger, more complex facilities with more potential sources of pollutants. Please note that the costs in this table exclude special requirements, such as EPCRA 313 requirements. EPA estimated the cost of preparing a storm water pollution prevention plan for a hypothetical small business in the automobile salvage yard industry. Based on experience and best professional judgment, EPA estimates that a typical small automobile salvage yard would face a one-time cost of about $874. This cost is lower than the low end of the cost estimate provided in Table 7 because it is based on a particular (though hypothetical) small business. Table 7 estimates are based on what EPA expects are appropriate for the majority of small facilities. Some facilities are likely to face lower costs, such as the hypothetical small automobile junk yard, and other facilities are likely to face higher costs.

The cost of compliance, monitoring and preparing the PPP for the multi-sector permit are not high when compared to the site-specific requirements to comply with an individual permit. The Clean Water Act does not give EPA the authority to exempt permitted facilities from requirements designed to improve the quality of the nation's waters. The economic ability of small businesses to comply with this permit can be a factor to consider if water quality concerns are not applicable to the surface water body receiving the storm water discharge.

The operators of regulated storm water discharges have to consider the economic effects of coverage under the multi-sector permit, the baseline general permit, or an individual NPDES permit. Coverage under either of the two general permits is not required by EPA. The NPDES regulations give EPA the authority to require coverage under an individual NPDES permit, not general permits. A facility's decision to be covered under a general permit is voluntary. Individual permits can require numerical limits and more frequent monitoring and reporting, along with the development and implementation of SWPPPs. The burden of developing an SWPPP is controlled by the facility's ability to achieve the permits goal: reduce or eliminate the discharge of pollutants to the nation's waters.

TABLE 7.—SUMMARY OF ESTIMATED RANGES OF COSTS FOR COMPLIANCE WITH STORM WATER POLLUTION PREVENTION PLANS WITH BASELINE REQUIREMENTS

	Low costs		High costs	
	First year costs	Annual costs	First year costs	Annual costs
Submittal of NOI	$14	.....	$14	.....
Notification of Municipality	14	.....	14	.....
Plan Preparation	1,518	.....	76,153	.....
Plan Implementation	90	294	35,400	9,371
Comprehensive Site Compliance Evaluation/Plan Revision	.....	267	.....	8,875
Reportable Quantities	(1) No Costs	.....	8,501	.....
Total	1,636	561	120,082	18,246

This table identifies estimated low and high costs (in 1992 dollars) to develop and implement storm water pollution prevention plans.
Low costs of implementing program components are zero where existing programs or procedures is assumed adequate.
The estimated costs for plan preparation and plan revisions includes costs of preparing/revising plan to address baseline requirements. However, the costs of implementing special requirements, such as those for EPCRA Section 313 facilities coal piles and salt piles are not otherwise addressed in this table.

B. Cost Estimates for EPCRA Section 313

Table 8 provides estimates of the range of costs of preparing and implementing a storm water pollution prevention plan for facilities subject to the special requirements for facilities subject to EPCRA Section 313 reporting requirements for chemicals classified as "Section 313 water priority chemicals." EPA expects the majority of facilities to have existing containment systems that meet the majority of the requirements of this permit. High cost estimates correspond to facilities that are expected to be required to undertake some actions to upgrade existing containment systems to meet the requirements of this permit.

TABLE 8.—SUMMARY OF ESTIMATED ADDITIONAL COSTS FOR COMPLIANCE WITH STORM WATER POLLUTION PREVENTION PLANS FOR FACILITIES SUBJECT TO SECTION 313 OF EPCRA FOR WATER PRIORITY CHEMICALS

	Low costs		High costs	
	Costs during first 3 years	Annual costs	Costs during first 3 years	Annual costs
Plan Preparation	$630	.....	0	.....
Liquid Storage Areas	.....	.....	$11,200	.....
Material Storage Areas	.....	.....	560	.....
Loading Areas	.....	.....	21,000	.....
Process Areas	.....	.....	11,190	.....
Drainage/Runoff	.....	.....	7,750	.....
Housekeeping/Maintenance	.....	.....	.....	$5,957
Facility Security	.....	.....	3,240	.....
Employee Training	.....	.....	.....	1,403
Toxicity Reduction	.....	.....	.....	3,046
Totals	630	50	54,940	10,406

This table identifies estimated additional low and high costs to develop and implement storm water pollution prevention plans for EPCRA Section 313 facilities subject to special conditions.
Low costs of implementing program components are zero where existing programs, procedures or security is assumed adequate.
The high costs for preparing pollution prevention plans to include EPCRA Section 313 additional requirement were addressed as part of the estimated high costs for preparation of baseline pollution prevention plans (see Table 7).

C. Cost Estimates for Coal Piles

The effluent limitations for coal pile runoff in the permit can be achieved by these two primary methods: limiting exposure to coal by use of covers or tarpaulins and collecting and treating the runoff. In some cases, coal pile runoff may be in compliance with the effluent limitations without covering of the pile or collection or treatment of the runoff. In these cases, the operator of the discharge would not have a control cost.

The use of covers or tarpaulins to prevent or minimize exposure of the coal pile to storm water is generally expected to be practical only for relatively small piles. Coal pile covers or tarpaulins are anticipated to have a fixed cost of $400 and annual cost of $160.

Table 9 provides estimates of the costs of treating coal pile runoff.[15] These costs are based on a consideration of a treatment train requiring equalization, pH adjustment, and settling, including the costs for impoundment (for equalization), a lime feed system and mixing tanks for pH adjustment, and a clarifier for settling. The costs for the

[15] The type and degree of treatment required to meet the effluent limitations of this permit vary depending on factors such as the amount of sulfur in the coal. This section describes a model treatment scheme for estimating costs for compliance with the effluent limitations. Dischargers may implement other less expensive treatment approaches to enable them to discharge in accordance with these limits where appropriate.

impoundment area include diking and containment around each coal pile and associated sumps and pumps and piping from runoff areas to the impoundment area. The costs for land are not included. The lime feed system employed for pH adjustment includes a storage silo, shaker, feeder, and lime slurry storage tank, instrumentation, electrical connections, piping, and controls.

Additional costs may be incurred if a polymer system is needed. In this case, costs would include impoundment for equalization, a lime feed system, mixing tank, and polymer feed system for chemical precipitation, a clarifier for settling, and an acid feeder and mixing tank to readjust the pH within the range of 6 to 9. The equipment and system design, with the exception of the polymer feeder, acid feeder, and final mixing tank, are essentially the same as shown in Table 9. Two tanks are required for a treatment train with a polymer system, one for precipitation and another for final pH adjustment with acid. The cost of mixing is therefore twice that shown in Table 9. The polymer feed system includes storage hoppers, chemical feeder, solution tanks, solution pumps, interconnecting piping, electrical connections, and instrumentation. The costs of clarification are identical to that of Table 9. A treatment train with a polymer system requires the use of an acid addition system to readjust the pH within the range of 6 to 9. The components of this system include a lined acid storage tank, two feed pumps, an acid pH control loop, and associated piping, electrical connections, and instrumentation.

Additional information regarding the cost of these technologies can be found in "Development Document for Effluent Limitations Guidelines and Standards and Pretreatment Standards for the Steam Electric Point Source Category," (EPA–440/182/029), November 1982, EPA.

TABLE 9.—SUMMARY OF ESTIMATED COSTS FOR TREATMENT OF COAL PILE RUNOFF

	30,000 cubic meter coal pile	120,000 cubic meter coal pile
IMPOUNDMENT:		
Installed Capital Cost	6,850	6,850
Operation and Maintenance ($/year)	Negligible	Negligible
LIME FEED SYSTEM:		
Installed Capital Cost ($)	138,800	255,700
Operation and Maintenance ($/year)	5,780	10,655
Energy Requirements (kwh/yr)	3.6x10**4	3.6x10**4
Land Requirements (ft**2)	5,000	5,000
MIXING EQUIPMENT:		
Installed Capital Cost ($)	65,750	91,320
Operation and Maintenance ($/year)	2,280	2,430
Energy Requirements (kwh/yr)	1.3x10**3	3.3x10**3
Land Requirements (ft**2)	2,000	2,000
CLARIFICATION:		
Installed Capital Cost ($)	182,650	237,450
Operation and Maintenance ($/year)	3,200	3,650
Energy Requirements (kwh/yr)	1.3x10**3	3.3x10**3
Land Requirements (acres)	0.1	0.1

Source: "Development Document for Effluent Limitations Guidelines and Standards and Pretreatment Standards for the Steam Electric Point Source Category" (EPA–440/182/029), November 1982, EPA). Costs estimates are in 1992 dollars.

D. Cost Estimates for Salt Piles

Salt pile covers or tarpaulins are anticipated to have a fixed cost of $400 and an annual cost of $160 for medium-sized piles and a fixed cost of $4,000 and an annual cost of $2,000 for very large piles. Structures such as salt domes are generally expected to have a fixed cost of between $30,000 for small piles ($70 to $80 per cubic yard) and $100,000 for larger piles ($18 per cubic yard) with costs depending on size and other construction parameters.

VIII. Special Requirements for Discharges Associated With Specific Industrial Activities

The industry-specific requirements allow the implementation of site-specific measures that address features, activities, or priorities for control associated with the identified storm water discharges. This framework provides the necessary flexibility to address the variable risk for pollutants in storm water discharges associated with the different types of industrial activity addressed by this permit. This approach also assures that facilities have the opportunity to identify procedures to prevent storm water pollution at a particular site that are appropriate, given processes employed, engineering aspects, functions, costs of controls, location, and age of the facility (as contemplated by 40 CFR 125.3). The approach taken also allows the flexibility to establish controls that can appropriately address different sources of pollutants at different facilities.

A. Storm Water Discharges Associated With Industrial Activity From Timber Products Facilities

1. Discharges Covered Under This Sector

Eligibility for coverage under this section is limited to those facilities in the lumber and wood products industry (primary SIC Major Group is 24), except wood kitchen cabinets manufacturers (SIC Code 2434). Permit conditions for facilities in the wood kitchen cabinets manufacturers industry (SIC Code 2434) are discussed in the wood and metal furniture and fixture manufacturing sector (Part XI.W of today's permit). SIC Major group 24 represents those "establishments engaged in cutting timber and pulpwood, merchant sawmills, lath mills, shingle mills, cooperage stock mills, planing mills, and plywood and veneer mills engaged in producing lumber and wood basic materials; and establishments engaged in wood preserving or in manufacturing finished articles made entirely of wood or related materials." [16]

[16] "Handbook of Standard Industrial Classifications," Office of Management and Budget, 1987.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

Wood kitchen cabinet facilities (SIC Code 2434) are excluded from coverage under this section because EPA believes it is more appropriate to cover manufacturers of wood cabinets with furniture manufacturing facilities (SIC Major group 25). As indicated in the November 16, 1990, **Federal Register** (55 FR 48008), "Facilities under SIC Code 2434 and 25 are establishments engaged in furniture making." EPA believes that this grouping is more appropriate due to the typical use by cabinet makers of wood treating solutions such as mineral spirits and propenyl butyl.[17] This practice is common to wood furniture manufacturing, but is atypical of the other industrial operations performed at facilities in the lumber and wood products industry (SIC Major group 24).

Certain silvicultural activities are not required to be covered under National Pollutant Discharge Elimination System (NPDES) storm water permits (40 CFR 122.27). In accordance with 40 CFR 122.27(b), point sources that must be covered by an NPDES permit are "any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities, which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States." Discharges from nonpoint source silvicultural activities, including harvesting operations (see 40 CFR 122.27) are not required to be covered.

It is EPA's determination harvesting activities include: the felling, skidding, preparation (e.g., delimbing and trimming), loading and initial transport of forest products from an active harvest site. An active harvest site is considered to be an area where harvesting operations are actually on-going. EPA also interprets the definition of harvesting operations to include incidental stacking and temporary storage of harvested timber on the harvest site prior to its initial transport to either an intermediate storage area or other processing site. EPA considers this activity to be an inherent part of harvesting operations. However, EPA does not intend the definition of active harvesting operations to include sites that are processing, sorting, or storing harvested timber which has been transported there from one or more active harvesting sites. Consequently, EPA considers these site activities a point source under 40 CFR 122.27(b)(1) and operators of these sites must seek an NPDES permit for discharges of storm water.

Effluent guidelines have been promulgated for the Timber Products Processing Point Source Category at 40 CFR Part 429 (46 FR 8260; January 26, 1981). Under these regulations, effluent limitations and standards were set for process wastewaters from any timber products processing operation, and any plant producing insulation board with wood as the major raw material. The definition of process wastewater excluded "noncontact cooling water, material storage yard runoff (either raw material or processed wood storage) and boiler blowdown. For the dry process hardboard, veneer, finishing, particleboard, and sawmills and planing mills subcategories, fire control water is excluded from the definition." Any discharge subject to an effluent limitation guideline is not eligible for coverage under this section. Even though discharges of boiler blowdown and noncontact cooling water are not considered "process water discharges," they do not fall under the definition of storm water discharges. As such, this section does not provide for their coverage. In addition, contact cooling waters and water treatment wastewater discharges from steam operated sawmills will not be covered. Finally, material storage yard runoff, exempted from coverage under the effluent limitation guidelines, is eligible to be covered in accordance with the terms and conditions of this section.

In addition, it should be noted that certain wood preserving wastes have been listed under 40 CFR 261.31 as hazardous wastes from nonspecific sources (55 FR 50450; December 6, 1990). Storm water discharges that come in contact and/or commingle with these wastes will be considered a hazardous waste and will not be authorized for discharge under this section. Despite the listing of these wastes, however, there remains a potential for storm water to become contaminated through incidental activities such as tracking of materials, fugitive emissions, and miscellaneous other activities. These discharges are covered under today's permit. Wastewaters, process residuals, preservative or protectant drippage, and spent formulations from wood preserving processes that use chlorophenolic formulations, creosote formulations, or arsenic and chromium formulations have been listed as hazardous wastes. Wastes from wood surface protection were proposed for listing under this subpart (53 FR 53282; December 30, 1988, and 58 FR 25706; April 27, 1993) but listing the wastes was determined unnecessary in a subsequent rulemaking (59 FR 458; January 4, 1994). Storm water discharges containing these wastes are therefore covered under today's permit.

2. Industry Profile/Description of Industrial Activities

Facilities engaged in activities classified under SIC Major Group 24 use wood as their primary raw material. Although there is diversity among the types of final products that are produced at timber products facilities, there are common industrial activities performed among them. These activities are broadly classified for ease of discussion and include the following: log storage and handling; untreated wood lumber and residue generation activities, and untreated wood materials storage; wood surface protection activities, and chemicals and surface protected materials storage; wood preservation activities, and chemicals and preserved wood material storage; wood assembly/fabrication activities and final fabricated wood product storage; and equipment/vehicle maintenance, repair and storage.

In many cases, more than one of these activities may be conducted at a single facility location.

a. Log Storage and Handling. Log storage and handling activities may occur onsite at many types of facilities covered under this section of today's permit, such as wood collection yards and lumber processing and veneer manufacturing facilities. However, facilities that are primarily engaged in these activities (e.g., wood collection yards) are most appropriately classified under SIC Code 2411.

Typical industrial activities performed include loading and unloading of logs onto trucks or railroad cars for transport to other facilities, log

[17] Part 1 Storm Water Group Permit Applications. Summaries from individual applicant descriptions including Applicant No. 1156 (Westvaco), Applicant No. 92 (Bowater), and Applicant No. 866 (Louisiana-Pacific).

sorting, and storage of logs. In addition, some cutting may be performed such as chopping off tree branches and sectioning of tree trunks for easier handling during transport. Although not typically performed at wood collection facilities, chipping may be performed at facilities serving pulp industries. Residues generated at these sites may include bark, coarse sawdust, and wood chunks.

Significant materials that have the potential to come in contact with storm water discharges at facilities practicing these activities include: uncut logs (hardwood and softwoods), wood bark, wood chips, coarse saw dust, other waste wood material, petroleum and other products for equipment maintenance (fuels, motor oils, hydraulic oils, lubricant fluids, brake fluids, and antifreeze), herbicides, pesticides, and fertilizers, material handling equipment (forklifts, loaders, vehicles, chippers, debarkers, cranes, etc.).

These log storage and handling activities described above have the potential to discharge pollutants including bark and wood debris, total suspended solids (TSS), and leachates.[18] The leachate generated from these operations from the decay of wood products can contain high levels of TSS and biochemical oxygen demand (BOD_5).[19]

b. Untreated Wood Lumber and Residue Generation Activities and Untreated Wood Materials Storage. The primary product from sawmills and other cutting activities is lumber. However, residues such as debarked wood chips; whole tree chips and slab wood; bark; and sawdust constitutes approximately 25 percent of the total wood production.[20] At large saw mills, approximately 2,500 lbs of residue is generated for each 1,000 board feet of lumber derived.[21]

Facilities that produce untreated lumber and residues can be classified under most of the SIC Codes in Major group 24. These facilities include saw mill and planing mill facilities classified in group 242; millwork, veneer, plywood and structural wood member manufacturing facilities classified in group 243; wood container manufacturing facilities in group 244; wood building and mobile home manufacturing facilities in group 245; and miscellaneous wood product manufacturers in group 249.

These facilities may engage in one or more activities such as log washing, bark removal, milling, sawing, resawing edging, trimming, planing, machining, air drying, and kiln drying. In addition, there may be associated boiler operations, loading and unloading activities and storage activates.

Effluent guidelines have been established at 40 CFR Part 429 Subparts A, I, and J for discharges from log washing, debarking and wet storage, respectively. These discharges are considered process waters and are subject to the effluent limitations of each subpart.

Some facilities generate residue as a product, in lieu of lumber or other finished products, while other facilities may generate residues as a waste product. In most cases, there are markets for these residues. For example, chips and sawdust are used in the production of pulp and paper and wood products manufacturing. A summary of the residues generated and their potential uses include: bark (used in landscaping, compost, recreational applications (trails), energy recovery); wood chips (used in pulp and paper mill feed, landscaping, recreational applications, fire logs, energy recovery); planer shavings (used in particle board, livestock bedding, compost, fire logs, domestic pet litter, energy recovery); and sawdust (used in particle board, livestock bedding, compost, fire logs, domestic pet litter, energy recovery.)[22]

Storage activities at these sites include wet and dry storage of logs and storage of residuals. Wet storage, called "wet decking," is a process used when logs are to be stored for an extended period of time. Wet storage retards decaying and infestation by insects. The logs may be stored under water in ponds or may be placed in areas where water is continuously sprayed over them. Residuals are typically stored dry.

Storm water discharges from lumber and residue generation and storage may come in contact with the following types of wastes and/or materials at the facility which can then contribute pollutants to the storm water: uncut logs (hardwood and softwoods), wood bark, wood chips, wood shavings, sawdust, green lumber, rough and finished lumber, other waste wood material, nonhazardous wood ash, above and below ground fuel storage tanks for diesel, gasoline, propane and fuel oil, finishing chemicals (stain, lacquer, varnish, paints, water repellant, sealants), solvents and cleaners, petroleum and other products for equipment maintenance (fuels, motor oils, hydraulic oils, lubricant fluids, brake fluids, and antifreeze), herbicides, pesticides, and fertilizers, sawmill equipment, material handling equipment (Forklifts, loaders, vehicles, chippers, debarkers, cranes, etc.), boiler water treatment chemicals, scrap metals, scrap equipment and plastics, boiler blowdown water, and leachate from decaying organic matter.

Pollutants resulting from lumber and residue generation and storage activities are typically conventional in nature. Low pH levels can result from the leachate of decaying organic materials. TSS and BOD_5 may be elevated in this leachate.[23] In addition to leachate, washed away residue particles contribute to TSS loadings. Equipment and machinery at the facility site may result in the discharge of oil and grease.

c. Wood Surface Protection Activities, Chemicals and Surface Protected Materials Storage. At many hardwood saw mills, wood surface protection is conducted to prevent sap stain. Sap stain is the unsightly discoloration of lumber products caused by fungus.[24] Surface protection is a cosmetic fix only and differs from wood preservation which is a practice designed to enhance the wood's structural integrity.

Surface protection is accomplished by one of three methods: spraying, ranging from manual spraying with a garden hose to more sophisticated on-line high pressure spray boxes; dipping, a batch process where lumber is immersed then removed from the formulation; and green chain operations, a continuous immersion operation where lumber is pulled through the protection tanks by conveyer.[25]

Historically, the primary chemical used in surface protection has been commercial pentachlorophenate. Concentrated chemicals are diluted to 0.5 to 1 percent pentachlorophenol for surface protection. This concentration is lower than the 2 percent to 9 percent pentachlorophenol used in wood

[18] "NPDES Docket No. 1085–07–22–402, NPDES Appeal No. 86–14: In the Matter of Shee Atika, Incorporated," January 21, 1988.

[19] "Regulatory Guidance and Waste Reduction Manual for United States Sawmills (Draft)," EPA Office of Solid Waste, January 12, 1993.

[20] "Using Best Management Practices to Prevent and Control Pollution from Hardwood Residue Storage Sites," Pennsylvania Hardwoods Development Council, May 15, 1992.

[21] "Regulatory Guidance and Waste Reduction Manual for United States Sawmills (Draft)," EPA Office of Solid Waste, January 12, 1993.

[22] "Regulatory Guidance and Waste Reduction Manual for United States Sawmills (Draft)," EPA Office of Solid Waste, January 12, 1993.

[23] "Regulatory Guidance and Waste Reduction Manual for United States Sawmills (Draft)," EPA Office of Solid Waste, January 12, 1993.

[24] "Background Document Supporting the Proposed Listing of Wastes from Surface Protection Processes, Part One Final Engineering Analysis Volume 1," EPA Office of Solid Wastes, February 1993.

[25] "Regulatory Guidance and Waste Reduction Manual for United States Sawmills (Draft)," EPA Office of Solid Waste, January 12, 1993.

preserving. Producers of chlorophenolic formulations used in surface protection have recently discontinued the product due to the pending hazardous waste regulations and it is expected that stocks will soon be exhausted. Alternatives to pentachlorophenate solutions which have been developed and are currently used include: iodo-prophenyl butyl carbamate, dimethyl sulfoxide, didecyl dimethyl ammonium chloride mixtures; sodium azide mixtures; iodo-prophenyl butyl carbamate, didecyl dimethyl ammonium chloride mixture; 8-quinolinol, copper (II) chelate mixtures; iodo-prophenyl butyl carbamate mixtures; sodium ortho-phenylphenate mixtures; 2-(thiocyanomethylthio)-benzothiozole (TCMTB) and methylene bis (thiocyanate) mixture; and zinc naphthenate mixtures.[26]

Industrial activities at saw mills with the potential to contaminate storm water include spills from surface protection areas, storage and mixing tank areas, treated wood drippage, transport or storage areas, maintenance and shop areas, and areas used for treatment/disposal of wastes. Fugitive emissions from negative pressure spraying activities and hand spraying surface protection formulations may also result in the contamination of storm water.[27]

Significant materials that have the potential to come in contact with storm water discharges at facilities practicing these activities include: all of the materials stated in 3.b. above (under untreated wood lumber and residue generation activities and untreated materials storage) plus treated lumber, treatment chemicals, and treatment equipment (dipping tanks, green chain, material handling equipment, etc.).

Pollutants which result from these types of surface protection operations may include the constituents of those surface protection chemicals listed above, as well as aggregate parameters such as BOD_5, COD, and TSS.

d. Wood Preservation Activities, and Chemicals and Preserved Wood Material Storage. Wood preserving is the application of chemicals to wood and wood products to preserve the structural integrity of the wood. Wood preserving is designed to prevent/delay the deterioration/decay of wood through the addition of flame retardants, water repellents, and chemicals. Wood preserving differs from wood surface protection which is generally performed for aesthetic reasons.[28]

Wood preserving is accomplished by two steps. First, the moisture content of wood is reduced to increase its permeability (this is referred to as conditioning). Conditioning may be accomplished by: (1) allowing wood to dry at ambient temperatures; (2) kiln drying; (3) steaming the wood, then applying a vacuum; (4) dipping the wood in a heated salt bath; or (5) vapor drying, and immersing the wood in a solvent (usually naphtha or Stoddard solvent). After conditioning, wood is impregnated with a preservative for fire retardency, insecticidal resistance, and/or fungicidal resistance. Preservation may be accomplished by either nonpressurized and pressurized methods. The nonpressurized method involves dipping stock in a bath containing the preservatives (either heated or at ambient temperatures), while pressurized methods involve subjecting the wood to the preservative when under pressure. After treatment, the wood stock is often subject to cleaning in order to remove excess preservative prior to stacking treated lumber products outside.[29]

There are a number of different avenues by which wood preserving wastes may contaminate storm water. These may include: drippage of condensate or preservative after pressurized treatment; washing after preservation to remove excess preservative, which usually occurs either in the treatment or storage areas; spills and leaks from process equipment and preservative tanks; fugitive emissions from vapors in the process, as well as blow outs and emergency pressure releases; and kick-back (phenomenon where preservative leaks as it returns to normal pressure) from the lumber.[30]

A wide variety of chemicals are used in the preservation of wood, the most common are creosote, pentachlorophenol and inorganics.

Creosote-based preservatives are mixtures of coal-tar derivatives and creosote solutions (creosotes fortified with insecticide additives such as pentachlorophenol, arsenic trioxide, copper compounds or malathion). Pentachlorophenol preservatives are typically formulations using petroleum solvents and 5 percent total pentachlorophenol. Waxes and resins may also be added.[31] Inorganic preservatives consist of arsenical and chromate salts and fluorides dissolved in water. The most commonly used inorganic preservatives include:[32] chromated copper arsenate (CCA); ammoniacal copper arsenate (ACA); acid copper chromate (ACC); chromated zinc chloride (CZC); and fluor-chrome-arsenate-phenol (FCAP).

Significant materials that have the potential to come in contact with storm water discharges at facilities practicing wood preservation include: all of the materials stated in 3.b. (untreated wood lumber and residue generation activities and untreated wood materials storage) plus treated lumber, treatment chemicals, and treatment equipment (preservative, tanks, preservative contaminated material handling equipment).

Pollutants expected to be discharged from wood preserving facilities typically include conventional pollutants such as BOD_5, TSS and oil and grease, as well as toxics which are dependent upon the preserving formulations used. Organic solvent components such as benzene, toluene, xylene, and ethylbenzene can be found at pentachlorophenol preservation operations. Phenolic compounds such as phenol, chlorophenols, nitrophenols can be found at plants using pentachlorophenol and creosote preservatives. The polynuclear aromatic hydrocarbons of creosote, including anthracene, pyrene, and phenanthrene are often contained in the entrained oils. High phenolic, COD, and oil and grease concentrations have been noted to result from creosote and pentachlorophenol operations. Traces of copper, chromium, arsenic, zinc, and boron often can be found in the wastewaters of plants which use waterborne salt preservatives.[33]

e. Wood Assembly/Fabrication Activities and Final Fabricated Wood Product Storage. The industrial

[26] "Regulatory Guidance and Waste Reduction Manual for United States Sawmills (Draft)," EPA Office of Solid Waste, January 12, 1993.

[27] "Background Document Support the Proposed Listing of Wastes From Wood Preservation and Surface Protection Processes," EPA Office of Solid Waste, July 1987.

[28] "Background Document Supporting the Proposed Listing of Wastes from Surface Protection Processes, Part One Final Engineering Analysis Volume 1," EPA Office of Solid Wastes, February 1993.

[29] "Development Document for Effluent Limitations Guidelines and Standards for the Timber Products Point Source Category, Final (EPA 440/1–81/023)," EPA, Effluent Guidelines Division, January 1981.

[30] "Background Document Support the Proposed Listing of Wastes From Wood Preservation and Surface Protection Processes," EPA Office of Solid Waste, July 1987.

[31] "Background Document Support the Proposed Listing of Wastes From Wood Preservation and Surface Protection Processes," EPA Office of Solid Waste, July 1987.

[32] "Background Document Support the Proposed Listing of Wastes From Wood Preservation and Surface Protection Processes," EPA Office of Solid Waste, July 1987.

[33] "Development Document for Effluent Limitations Guidelines and Standards for the Timber Products Point Source Category, Final (EPA 440/1–81/023)," EPA, Effluent Guidelines Division, January 1981.

activities conducted as part of the assembly and fabrication process are very diverse. For the most part, industrial activities that have the potential to come in contact with precipitation are similar to those described under lumber and residue generation (see Section A.3.b). However, there are a number of additional industrial activities that differ. For example, the fabrication of fiberboard, insulation board, and hardboard may involve the use of wax emulsions, paraffin, aluminum sulfate, melamine formaldehyde, and miscellaneous thermosetting resins. These chemicals may be introduced as part of the board formation process or as a coating to maintain the board's integrity. Generally, these additives account for less than 20 percent of the board. In the formation of fiberboard/insulation board/hardboards, the digestion of pulp and fiber by mechanical, thermal, and sometimes chemical means takes place.[34] Another operation which involves resinous agents is the formation of veneer. In this process, veneer is placed in hot ponds or vats to soften the wood. Veneer strips are removed and often bound by glue or a resinous agent. Glues are also used in the assembly of wood components.[35] Other types of activities include the finishing of wood products. Stains, paints, lacquers, varnish, water repellents and sealants, etc. may be applied to some of the wood products. Many of these materials may not have the potential to come in contact with precipitation as most of these processes are performed within a covered area or building.

Pollutants expected to be found in storm water discharges at facilities that perform these types of industrial activities include BOD_5 and TSS. Oil and grease may be present due to material handling equipment and transport vehicles.

f. Equipment/Vehicle Maintenance, Repair and Storage. Many of the facilities included in the SIC Major group 24 employ the use of material handling equipment, vehicles and other machinery. These facilities store the equipment onsite and may also engage in maintenance and repair activities on them. These types of activities are performed in either covered or outdoor areas of the facility. Associated with these activities is the storage of significant materials such as petroleum products and other maintenance fluids such as fuels, motor oil, hydraulic oils, lubricant fluids, brake fluids, solvents, cleaners and antifreeze.

3. Pollutants Contributing to Storm Water Contamination

Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the timber products industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: general saw mills and planning mills; wood preserving; log storage and handling; and hardwood dimension and flooring mills, special products saw mills, millwork, veneer, plywood and structural wood, wood containers, wood buildings and mobile homes, reconstituted wood products and wood products not elsewhere classified. Tables A–1 through A–4 below include data for the eight pollutants that all facilities were required to monitor for under Form 2F. The tables also lists those parameters that EPA has determined may merit further monitoring.

TABLE A–1.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY GENERAL SAWMILLS AND PLANING MILLS FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	34	35	74	73	48.6	47.2	0.0	0.0	440.0	660.0	18.5	18.0	169.8	151.5	400.2	322.6
COD	34	34	75	72	337.0	289.6	0.0	0.0	2156.0	1804.0	115.0	165.5	1346.7	1012.2	3442.9	2170.3
Nitrate + Nitrite Nitrogen	35	34	75	71	0.47	0.47	0.00	0.00	1.50	2.00	0.40	0.40	1.82	1.92	3.57	3.87
Total Kjeldahl Nitrogen	35	34	75	71	2.80	2.42	0.00	0.00	21.00	27.00	1.40	1.40	9.41	7.01	19.18	12.99
Oil & Grease	35	N/A	75	N/A	9.5	N/A	0.0	N/A	55.0	N/A	3.8	N/A	30.5	N/A	62.0	N/A
pH	40	N/A	84	N/A	N/A	N/A	4.7	N/A	9.7	N/A	7.5	N/A	9.5	N/A	10.8	N/A
Total Phosphorus	35	35	75	72	0.61	0.57	0.00	0.00	2.80	3.97	0.30	0.38	2.78	2.34	6.78	5.34
Total Suspended Solids	34	34	74	71	1459	798	1	0	18000	6460	252	400	6998	4376	50040	12921
Zinc	5	5	13	12	0.448	0.362	0.050	0.11	1.7	1.2	0.32	0.29	1.359	0.842	2.458	1.307

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.

[ii] Composite samples.

TABLE A–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY WOOD PRESERVING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	9	9	13	13	14.5	14.3	2.4	2.1	39.0	32.0	13.7	12.4	45.9	44.7	84.4	80.9
COD	9	9	13	13	115.2	98.7	36.0	31.0	274.0	191.0	100.0	98.0	264.3	236.1	398.4	362.7
Nitrate + Nitrite Nitrogen	9	9	13	13	1.05	1.47	0.30	0.20	2.20	5.20	0.90	1.10	2.29	4.74	3.36	9.06
Total Kjeldahl Nitrogen	9	9	13	13	2.20	2.25	1.00	0.80	4.00	3.60	2.20	2.20	3.97	4.74	5.21	6.78
Oil & Grease	9	N/A	13	N/A	7.6	N/A	0.0	N/A	80.0	N/A	0.00	N/A	60.9	N/A	380.8	N/A
pH	8	N/A	12	N/A	N/A	N/A	6.0	N/A	16.0	N/A	7.0	N/A	11.4	N/A	13.5	N/A
Total Phosphorus	9	9	13	13	0.44	0.26	0.00	0.06	1.57	0.90	0.25	0.19	1.54	0.74	3.19	1.30

[34] "Development Document for Effluent Limitations Guidelines and Standards for the Timber Products Point Source Category, Final (EPA 440/1–81/023)," EPA, Effluent Guidelines Division, January 1981.

[35] Part 1 Storm Water Group Permit Applications. Summaries from individual applicant descriptions including Applicant No. 1156 (Westvaco), Applicant No. 92 (Bowater), and Applicant No. 866 (Louisiana-Pacific).

TABLE A–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY WOOD PRESERVING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)—Continued

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
Total Suspended Solids	8	8	13	13	242	107	11	12	916	280	50	99	1025	343.8	2661	638.5

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE A–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY LOG STORAGE AND HANDLING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	22	24	52	56	18.7	22.6	0.0	0.0	260.0	130.0	8.3	7.3	86.4	89.3	150.7	206.6
COD	21	23	51	54	286.8	282.1	0.0	0.0	1500	1600	130.0	110.0	1127.8	940.5	2715.2	2110.7
Nitrate + Nitrite Nitrogen	15	17	43	46	0.17	0.19	~0.0	0.0	0.82	1.10	0.09	0.11	0.74	0.74	1.61	1.48
Total Kjeldahl Nitrogen	14	17	40	45	2.30	2.14	0.0	0.0	9.35	12.2	1.46	1.36	8.12	5.98	15.03	10.49
Oil & Grease	25	N/A	57	N/A	3.8	N/A	0.0	N/A	37.0	N/A	1.8	N/A	12.9	N/A	24.5	N/A
pH	25	N/A	57	N/A	N/A	N/A	2.8	N/A	8.3	N/A	7.0	N/A	9.3	N/A	10.5	N/A
Total Phosphorus	22	24	50	55	89.49	21.38	0.0	0.0	3000.00	1160	0.20	0.23	15.63	3.86	87.17	13.49
Total Suspended Solids	22	24	52	55	1024	566.8	0.0	0.0	16520	5180	518	164	6857	3121	25663	10720

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE A–4.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY HARDWOOD DIMENSION AND FLOORING MILLS; SPECIAL PRODUCTS SAWMILLS, NOT ELSEWHERE CLASSIFIED; MILLWORK, VENEER, PLYWOOD AND STRUCTURAL WOOD; WOOD CONTAINERS; WOOD BUILDINGS AND MOBILE HOMES; RECONSTITUTED WOOD PRODUCTS; AND WOOD PRODUCTS FACILITIES NOT ELSEWHERE CLASSIFIED SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	41	42	74	74	55.8	94.9	0.0	0.0	560.0	1935.0	13.5	17	201.8	355.8	558.8	599.6
COD	41	42	74	74	286.3	295.4	8.6	0.0	1315.0	1350.0	151.5	138.0	1155.0	702.3	2417.4	1333.8
Nitrate + Nitrite Nitrogen	41	42	74	74	2.78	1.43	0.0	0.0	66.00	22.5	0.25	0.31	7.49	4.81	25.93	13.03
Total Kjeldahl Nitrogen	41	42	74	74	2.66	2.56	0.0	0.0	14.70	12.5	1.88	1.70	9.11	8.78	15.16	17.85
Oil & Grease	41	N/A	74	N/A	30.7	N/A	0.0	N/A	591.7	N/A	2.0	N/A	74.8	N/A	252.3	N/A
pH	40	N/A	74	N/A	7.0	N/A	3.6	N/A	9.8	N/A	7.0	N/A	8.1	N/A	10.2	N/A
Total Phosphorus	41	42	73	74	0.91	0.55	0.0	0.0	12.00	3.10	0.36	0.38	3.42	2.03	8.15	4.17
Total Suspended Solids	41	42	74	74	891	448	0.0	1.0	17000	9700	242	282	5555	2957	21436	8434

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

The descriptions of industrial activities and significant materials exposed submitted by the group applicants in the wood preserving subsector indicated that these facilities has a high potential to discharge wood preservatives in their storm water discharge. These preservatives typically contain copper and arsenic compounds. The monitoring data which was statistically analyzed for the wood treatment indicated the presence of both arsenic and copper in the discharges. However, data from only eight facilities had been submitted in time for EPA to perform a statistical analysis. EPA, therefore reviewed additional data submitted by wood preserving facilities,and found that copper was present in concentrations greater than the benchmark value in 22 out of 34 observations. Arsenic was higher than bench mark in 12 out of 34 observations.

4. Options for Controlling Pollutants

There are three options for controlling pollutants at timber products facilities: source reduction, best management practices (BMPs), and/or end-of-pipe treatment. In evaluating the options for controlling pollutants in discharges of storm water associated with industrial activity, EPA must provide for compliance with the Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) requirements of Section 402(p)(3) of the Clean Water Act. The variabilities in both the industrial activities performed on a specific site and the storm water discharges from timber product facilities, coupled with the lack of sufficient characterization data make it infeasible to develop effluent limitations at this point in time. EPA believes that enabling the owner/operator of the facility to develop BMPs based on site-specific factors such as facility size, industrial activities performed, climate, geographic location, hydrogeology and the environmental setting of each facility will provide the flexibility needed to address appropriate controls to meet the BAT/BCT requirements. Development of a storm water pollution prevention plan that addresses exposure minimization BMPs, will be required for all facilities that discharge storm water from timber product facilities. EPA believes that exposure minimization BMPs will provide appropriate levels of control for pollutants in storm water discharges while allowing relatively inexpensive BMPs to be implemented.

In some instances, however, more labor and resource intensive structural controls such as sedimentation ponds may be appropriate. EPA believes that the BMPs discussed below will help provide a sufficient level of control for the types of pollutants found in discharges associated with timber product facilities.

In developing these industry-specific BMPs both the part 1 application data for facilities that sampled were reviewed, as well as industry-specific literature sources. The BMPs provided are separated into those most appropriate for certain areas of a site where pollutants may be released such as: log, lumber, and other wood product storage areas; residue storage areas; loading and unloading and material handling areas; chemical storage areas; and equipment/vehicle maintenance, storage and repair areas. These types of activities can be found at all types of timber product facilities. Table A–5 provides a summary of the effective practices for the control of pollutants for all timber product facilities.

TABLE A–5.—EFFECTIVE POLLUTANT CONTROL OPTIONS FOR ALL TIMBER PRODUCT FACILITIES

Activity	Associated BMPs
Log, Lumber, and Other Wood Product Storage Areas	Divert storm water around storage areas with ditches, swales and/or berms.
	Locate storage areas on stable, well-drained soils with slopes of 2–5 percent.
	Line storage areas with crushed rock or gravel or porous pavement to promote infiltration, minimize discharge and provide sediment and erosion control.
	Stack materials to minimize surface areas of materials exposed to precipitation.
	Practice good housekeeping measures such as frequent removal of debris.
	Provide collection and treatment of runoff with containment basins, sedimentation ponds and infiltration basins.
	Use ponds for collection, containment and recycle for log spraying operations.
	Use of silt fence and rip rap check dams in drainage ways.
Residue Storage Areas	Locate stored residues away from drainage pathways and surface waters.
	Avoid contamination of residues with oil, solvents, chemically treated wood, trash, etc.
	Limit storage time of residues to prevent degradation and generation of leachates.
	Divert storm water around residue storage areas with ditches, swales and/or berms.
	Assemble piles to minimize surface areas exposed to precipitation.
	Spray surfaces to reduce windblown dust and residue particles.
	Place materials on raised pads of compacted earth, clay, shale, or stone to collect and drain runoff.
	Cover and/or enclose stored residues to prevent contact with precipitation using silos, van trailers, shed, roofs, buildings or tarps.
	Limit slopes of storage areas to minimize velocities of runoff which may transport residues.
	Provide collection and treatment of runoff with containment basins, sedimentation ponds and infiltration basins.
	Use of silt fence and rip rap check dams in drainage ways.
Loading and Unloading and Material Handling Areas.	Provide diversion berms and dikes to limit runon.
	Cover loading and unloading areas.
	Enclose material handling systems for wood wastes.
	Cover materials entering and leaving areas.
	Provide good housekeeping measures to limit debris and to provide dust control.
	Provide paved areas to enable easy collection of spilled materials.
Chemical Storage Areas	Provide secondary containment around chemical storage areas.
	Provide fluid level indicators.
	Inventory of fluids to identify leakage.
	Locate storage areas away from high traffic areas and surface waters.
	Develop spill prevention, containment and countermeasure (SPCC) plans and implement.
	Cover and/or enclose chemical storage areas.
	Provide drip pads to allow for recycling of spills and leaks.

Sources:
NPDES Storm Water Group Application—Part 1. Received by EPA March 18, 1991, through December 31, 1992.
"Regulatory Guidance and Waste Reduction Manual for United States Sawmills (Draft)," EPA Office of Solid Waste, January 12, 1993.
"Background Document Supporting the Proposed Listing of Wastes From Wood Preservation and Surface Protection Processes," EPA Office of Solid Waste, July 1987.
"Chlorophenate Wood Protection, Recommendations for Design and Operation," Environment Canada, December 1983.
Wood Preserving; Identification and Listing of Hazardous Wastes; Final Rule, "FEDERAL REGISTER," Volume 55, No. 235, December 6, 1990.
Selected pages from "Texas Best Management Practices for Silviculture," Texas Forestry Association, 1989. Submitted for inclusion by American Pulpwood Association, Washington, D.C.

Wood surface protection and preserving facilities should consider additional controls for their storm water discharges because of the types of pollutants which may contaminate the discharges. Therefore, Table A–6 contains a summary of effective practices for the control of pollutants from timber product facilities that treat their wood. These BMPs are to be considered in conjunction with BMPs in Table A–5.

TABLE A–6.—ADDITIONAL EFFECTIVE POLLUTANT CONTROL OPTIONS FOR TIMBER PRODUCT FACILITIES THAT SURFACE PROTECT OR PRESERVE

Activity	Associated BMPs
Wood surface protection and preserving activities.	Extend drip time in process areas before moving to storage areas. Pave and berm areas used by equipment that has come in contact with treatment chemicals. Dedicate equipment that is used for treatment activities to that specific purpose only to prevent the tracking of treatment chemicals to other areas on the site. Locate treatment chemical loading and unloading areas away from high traffic areas where tracking of the chemical may occur. Provide drip pads under conveyance equipment from treatment process areas. Provide frequent visual inspections of treatment chemical loading and unloading areas during and after activities occur to identify any spills or leaks needing clean-up. Cover and/or enclose treatment areas. Provide containment in treated wood storage areas. Cover storage areas to prevent contact of treated wood products with precipitation. Elevate stored, treated wood products to prevent contact with runon/runoff.

Sources:
NPDES Storm Water Group Application—Part 1. Received by EPA March 18, 1991 through December 31, 1992.
"Regulatory Guidance and Waste Reduction Manual for United States Sawmills (Draft)," EPA Office of Solid Waste, January 12, 1993.
"Background Document Supporting the Proposed Listing of Wastes From Wood Preservation and Surface Protection Processes," EPA Office of Solid Waste, July 1987.
"Chlorophenate Wood Protection, Recommendations for Design and Operation," Environment Canada, December 1983.
Wood Preserving; Identification and Listing of Hazardous Wastes; Final Rule, "FEDERAL REGISTER," Volume 55, No. 235, December 6, 1990.
Selected pages from "Texas Best Management Practices for Silviculture," Texas Forestry Association, 1989. Submitted for inclusion by American Pulpwood Association, Washington, D.C.

Control of sediments leaving the site should also be considered by timber product facilities as sediments contribute to the total suspended solids in the storm water discharges. There are several areas of the site that may be prone to erosion due to intense industrial activities. These areas include, but are not limited to: loading and unloading areas, access roads, material handling areas, storage areas, and any other areas where heavy equipment and vehicle use is prevalent. Specific erosion and sediment controls should be implemented to minimize the discharge of sediments from the site. Measurements that timber facilities may consider include, but are not limited to: stabilization measures such as seeding, mulching, chemical stabilization, sodding, soil retaining measures and dust control and structural measures such as sediment traps, contouring, sediment basins, check dams and silt fences.

5. Special Conditions

a. Prohibition of Non-storm Water Discharges. Today's permit authorizes, in addition to the discharges described in part III.A.2., an additional non-storm water discharge specific to the timber products industry that, when combined with storm water, is authorized to be discharged under this permit. To be authorized under the permit, the sources of non-storm water must be identified in the storm water pollution prevention plan prepared for the facility. Where these discharges occur, the plan must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water components of the discharge. Authorized discharges include the following: spray down of lumber and wood product storage yards.

Spray down of lumber and wood product in storage yards is intermittently performed for fire control and pest control. Discharges from spray down activities are not storm water discharges; however, resulting discharges created as a result of spray down of raw lumber and wood product storage yards are authorized under this section where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage. EPA believes that this practice, when performed in compliance with the terms and conditions of this section, will not pose any additional risks to human health and the environment because it is an industrial activity which is performed intermittently and within the confines of an area that should already contain controls for pollutants in storm water discharges.

It should be noted that the following discharges are not authorized under this section: noncontact cooling wastewater; contact cooling wastewater; boiler blowdown and water treatment wastewater; and storm water from areas of surface protection hand spraying activities.

This prohibition of unpermitted non-storm water discharges ensures that these discharges are not inadvertently covered under this section and requires the permittee to submit the appropriate NPDES permit applications to gain coverage for the non-storm water portion of the discharge.

6. Storm Water Pollution Prevention Plan Requirements

Several storm water pollution prevention plan requirements are added in the section of today's permit for the timber products industry, in addition to the baseline conditions described in part VI.C. of today's fact sheet. These deal with the identification and description of potential pollutant sources, and requirements to meet specific good housekeeping, inspection, and sediment/erosion control measures. EPA is also recommending that several criteria be considered during the development of the storm water pollution prevention plan.

a. Contents of the Plan

(1) Description of Potential Pollutant Sources

(a) Drainage—There are no additional requirements beyond those described in Part VI.C.2.a. of this fact sheet.

(b) Inventory of Exposed Materials—This section will require those facilities that have conducted activities associated with wood preserving and wood surface protection with pentachlorophenol formulations, creosote formulations, or arsenic/

chromium formulations in the past to identify: areas where soils are contaminated, treatment equipment, and/or stored materials which remain as a result of these operations. This section will also require the identification of any management practices being employed to minimize the contact of these materials with storm water runoff.

EPA has added these requirements because it is aware through studies performed for the hazardous waste listing process that sites where wood surface protection and wood preserving chemicals have been used in the past continue to contribute pollutants to the storm water discharges that come in contact with them, even once the industrial activity has ceased.[36] In particular, soils that have been contaminated with formulation chemicals, equipment such as dipping tanks and those used for material handling, and wastes and materials that are still stored on the site may continue to release pollutants. EPA is requiring the facility to identify these pollutant sources so that appropriate controls can be implemented.

During the EPA process to list wastes from wood preservation and surface protection processes, data were gathered that showed that the concentration of constituents (of the treatment chemicals) in storm water runoff, in some instances, were equivalent to those concentrations found in process wastewaters. These studies also found high concentrations of phenolic compounds, pentachlorodifluron and phenanthrenes, and metals in soils contaminated with process residuals at several sites. These concentrations were attributed to treated wood drippage and precipitation washoff of treated woods.[37]

Where facilities have used chlorophenolic, creosote, or chromium-copper-arsenic formulations for wood surface protection or preserving activities onsite in the past, and information is available, EPA is requiring that the facility inventory the following: areas where soils are contaminated, treatment equipment, and treated materials remain. Once these areas are identified, measures to minimize their exposure to storm water or to limit discharge of pollutants into storm water must be implemented. EPA is requiring this evaluation because soils, equipment, and other materials that are contaminated by treatment chemicals may continue to be a source of pollutants and can contribute to the contamination of storm water runoff.

(c) Non-storm Water Discharges—There are no additional requirements beyond those described in Part III.A.2. of this permit.

(d) Risk Identification and Summary of Potential Pollutant Sources—There are not additional requirements beyond those described in Part VI.C.2.f. of this fact sheet.

(2) Measures and Controls. As contained in Part VIII.A.5. of this fact sheet, EPA has set forth a number of options which are effective in controlling releases of pollutants to storm water discharges associated with industrial activity. Due to the success of BMPs as a cost effective method of pollution control, EPA is requiring that all facilities consider the implementation of BMPs in the following areas of the site: log, lumber and other wood product storage areas; residue storage areas, loading and unloading areas; material handling areas; chemical storage areas; and equipment/vehicle maintenance, storage and repair areas. The conditions of this section also require facilities that surface protect and/or preserve wood products to address specific BMPs for wood surface protection and preserving activities.

EPA believes it is appropriate to require that permittees indicate in their storm water pollution prevention plan all potential sources of pollution. Effective pollution control measures are currently being implemented at timber product facilities and/or are identified in literature sources specific to timber products facilities. Additional practices may also be found in the "Storm Water Management for Industrial Activities, Developing Pollution Prevention and Best Management Practices" (EPA 832–R–92–006), EPA, September 1992. The determination of the appropriateness or inappropriateness of a measure must be indicated in the facility's storm water management plan.

(a) Good Housekeeping—In addition to typical good housekeeping measures that require the maintenance of areas which may contribute pollutants to storm water in a clean and orderly manner, the pollution prevention plan must specifically address good housekeeping measures and the specific frequency of performance of these measures which are designed to: (1) limit the discharge of wood debris; (2) minimize the leachate generated from decaying wood materials; and (3) minimize the generation of dust.

EPA has specified that BMPs limit the discharge of solids because storm water discharges containing TSS and BOD_5 are prevalent at timber products facilities and can often be controlled by good housekeeping measures.

(b) Preventive Maintenance—This section requires periodic removal of debris from ditches, swales, diversion, containment basins, and infiltration measures. The discharge of solids at timber product facilities may inhibit the performance of storm water controls if they are not maintained properly.

(c) Spill Prevention and Response Procedures—This section requires the development of schedules for response procedures to limit the tracking of spilled materials to other areas of the site. Specifically, this section requires that leaks or spills of wood surface protection or preservation chemicals be cleaned up immediately.

Requirements have been placed in this section to limit the tracking of significant materials that have been leaked or spilled on the site from containers, facility equipment, or onsite vehicles. Of particular concern is the tracking of leaks or spills of treatment chemicals outside near where storm water controls are in place. This may occur, for example, during the filling of storage tanks. Vehicles or equipment used to transfer materials may come into contact with any materials spilled during the filling or emptying of tanks. As the vehicles move to other locations at the site, such material may be tracked and eventually lead to contamination of storm water discharges.

(d) Inspections—Facility operators must conduct visual inspections of BMPs on a quarterly basis. Inspections must be performed quarterly at processing areas, transport areas, and treated wood storage areas of facilities performing wood surface protection and preservation activities. Quarterly inspections are designed to assess the usefulness of practices in minimizing drippage of treatment chemicals on unprotected soils and in areas that will come in contact with storm water discharges. In addition, all timber products facilities must conduct daily inspections of material handling activities and unloading and loading areas whenever activities are occurring in those areas (if activities are not occurring in those areas, no inspection is required).

[36] "Background Document Supporting the Proposed Listing of Wastes from Surface Protection Processes, Part One Final Engineering Analysis Volume 1," EPA Office of Solid Wastes, February 1993.

[37] "Background Document Supporting the Proposed Listing of Wastes from Surface Protection Processes, Part One Final Engineering Analysis Volume 1," EPA Office of Solid Wastes, February 1993.

Records will be required to be maintained showing that these inspections have been performed at the required frequencies. In addition, a set of tracking or follow-up procedures must be implemented to ensure appropriate actions are taken based on the findings of the inspections. These records should be developed on a case-by-case basis depending upon the facility's needs.

(e) Employee Training—There are no additional requirements beyond those listed in Part VI.C.3.e. of this fact sheet.

(f) Sediment and Erosion Control—This section requires that the following areas of the plant be considered for sediment and erosion controls: loading and unloading areas, access roads, material handling areas, storage areas, and any other areas where heavy equipment and vehicle use is prevalent. Sediment and erosion controls include: stabilization measures such as seeding, mulching, chemical stabilization, sodding, soil retaining measures; and dust control and structural measures such as sediment traps, contouring, sediment basins, check dams, and silt fences. This requirement is added because part 2 storm water group permit application data showed that many of the sites were discharging high TSS concentrations in their storm water discharges. Identifying those areas of the site where erosion occurs will aid the permittee in determining appropriate BMPs that will achieve a reduction in TSS loadings.

(g) Storm Water Management—There are no additional requirements beyond those described in Part VI.C.3.h. of this fact sheet.

(3) Comprehensive Site Compliance Evaluation. There are no additional requirements beyond those described in Part VI.C.4. of this fact sheet.

7. Monitoring and Reporting Requirements

(a) Analytical Monitoring Requirements. Under the revised methodology for determining pollutants of concern for the timber products subsectors, all facilities must monitor their storm water discharges. EPA believes that timber product facilities may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan and to characterize the discharge for potential environmental impacts, today's permit requires timber products facilities to collect and analyze grab samples of their storm water discharges for the pollutants listed in the applicable Tables (A–7 through A–10). The pollutants listed in Tables A–7 through A–10 were found to be above benchmark levels for a significant portion of facilities in the subsectors that submitted quantitative data in the group application process. Because these pollutants have been reported at or above benchmark levels, EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

Today's permit requires the wood preserving subsector to monitor for arsenic and copper. These parameters are commonly found in wood preservatives. The discharge data initially analyzed by EPA indicate that these parameters are found in the storm water discharges from wood preserving facilities. Review of additional sampling data revealed that there was a substantial portion of the facilities discharging these parameters in concentrations greater than the bench mark values. Therefore, EPA has determined that monitoring of arsenic and copper is necessary to ensure that the storm water pollution prevention plans developed by wood preserving facilities adequately addresses sources of these parameters.

Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, nitrate plus nitrite nitrogen is above the bench mark concentrations for the wood preserving subsector. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in this subsector, EPA has determined that the higher concentrations of nitrate plus nitrite nitrogen are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require wood preserving facilities to conduct analytical monitoring for this parameter.

At a minimum, storm water discharges from timber products facilities must be monitored quarterly during the second year of permit coverage. Samples must be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in the applicable Tables (A–7 through A–10). If the permittee collects more than four grab samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE A–7.—MONITORING REQUIREMENTS FOR GENERAL SAWMILLS AND PLANING MILLS

Pollutants of concern	Cut-off concentration
Chemical Oxygen Demand (COD)	120 mg/L.
Total Suspended Solids (TSS)	100 mg/L.
Zinc, Total Recoverable	0.065 mg/L.

TABLE A–8.—ADDITIONAL MONITORING REQUIREMENTS FOR WOOD PRESERVATION FACILITIES WITH CHLOROPHENOLIC FORMULATIONS

Parameter of concern	Cut-off concentration
Total Recoverable Arsenic	0.16854 mg/L.
Total Recoverable Copper	0.0636 mg/L.

TABLE A–9.—MONITORING REQUIREMENTS FOR LOG STORAGE AND HANDLING FACILITIES

Parameter of concern	Cut-off concentration
Total Suspended Solids (TSS)	100 mg/L.

TABLE A–10.—MONITORING REQUIREMENTS FOR HARDWOOD DIMENSION AND FLOORING MILLS; SPECIAL PRODUCTS SAWMILLS; MILLWORK, VENEER, PLYWOOD AND STRUCTURAL WOOD; WOOD CONTAINERS; WOOD BUILDINGS AND MOBILE HOMES; RECONSTITUTED WOOD PRODUCTS; AND WOOD PRODUCTS FACILITIES NOT ELSEWHERE CLASSIFIED

Parameter of concern	Cut-off concentration
Chemical Oxygen Demand (COD)	120 mg/L.
Total Suspended Solids (TSS)	100 mg/L.

If the average concentration for a parameter is less than or equal to the value listed in the appropriate Tables (A–7 through A–10), then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Tables (A–7 through A–10), then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit.

TABLE A–11.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Tables A–7 through A–10, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Tables A–7 through A–10, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Tables A–7 through A–10. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

The monitoring cut off concentrations listed in Tables A–7 through A–10 are not numerical effluent limitations. These values represent a level of pollutant discharge which facilities may achieve through the implementation of pollution prevention plans. At least half of the facilities that submitted Part 2 data from the applicable subsectors reported concentrations more than or equal to the values listed in Tables A–7 through A–10. Facilities that achieve average discharge concentrations which are less than or equal to the values in Tables A–7 through A–10 are not relieved from the pollution prevention plan requirements or any other requirements of the permit.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, there are monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a

certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports described under paragraph (*c*) below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, and significant materials from past industrial activity that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in accordance with Part VI.C of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*c*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report Form must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

f. Quarterly Visual Examination of Storm Water Quality. Timber products facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) must be made at least once in each of the following 3-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(*1*) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(*2*) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(*3*) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(*4*) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of

a sample impracticable (drought, extended frozen conditions, etc.).

(5) EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

B. Storm Water Discharges Associated With Industrial Activity From Paper and Allied Products Manufacturing Facilities

1. Discharges Covered Under This Section

On November 16, 1990 (55 FR 47990), EPA promulgated the regulatory definition of "storm water discharges associated with industrial activity." This definition included point source discharges of storm water from 11 categories of facilities, including paper and allied product manufacturing facilities that are commonly identified by Standard Industrial Classification (SIC) Major Group 26. Today's permit establishes special conditions for the storm water discharges associated with industrial activities at paper and allied product manufacturing facilities. Based on an evaluation of part 1 and part 2 group application data, these facilities were determined to perform similar operations, use similar raw materials, and employ similar material handling and storage practices. In light of the available information, it was determined that the storm water discharge characteristics would be similar for facilities covered by this section.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Industry Profile

SIC Major Group 26, the production of pulp, paper, and paperboard, is a highly diversified industry group which manufactures a variety of products. Products include newsprint, printing and writing papers, bleached and unbleached packaging paper, glassine, tissue papers, vegetable parchment, greaseproof papers, bleached and unbleached paperboard, special industrial papers, and pulp. Pulp, paper, and paperboard is produced from wood and nonwood products such as jute, hemp, rags, cotton linters, bagasse, and esparto. Secondary fibers, or wastepaper, is also used to produce paper and paperboard.

Four standard manufacturing processes are involved in the production of pulp, paper, and paperboard: (1) Raw material preparation, (2) pulping, (3) bleaching, and (4) papermaking.

a. Raw Material Preparation. Wood is the most widely used raw material for manufacturing pulp and paper products. Wood must be prepared for pulping by log washing, bark removal, and chipping/sawing. These activities are usually conducted outdoors and produce large amounts of wood chips, sawdust, and other wood debris. If exposed to storm water, these activities may contribute TSS and BOD_5 to the storm water discharge.

b. Pulping. Pulping involves reducing a cellulosic raw material into a form that may be further processed to produce paper or paperboard, or into a form that may be chemically converted. Two pulping methods are used to reduce the raw material: mechanical pulping and chemical pulping.

Mechanical pulping, also known as groundwood pulping, uses two processes to produce pulp, stone groundwood and refiner groundwood. Stone groundwood uses a grindstone to tear fiber from the side of short logs. Refiner groundwood passes wood chips through a disc refiner. In both processes, wood may be softened with chemicals or heat to reduce the amount of energy required for grinding. Mechanical pulp is very suitable for use in newspapers, catalogs, tissues, and one-time publications.

Chemical pulping, using cooking chemicals under controlled conditions, produces a variety of pulps for multipurposes. This process generally produces high quality paper products. Three types of chemical pulping are used: alkaline, sulfite, and semichemical.

Alkaline pulping, more commonly known as the kraft process, produces a very strong pulp and is adaptable to almost all wood species. The pulp is formed by boiling wood chips in an alkaline solution usually containing sodium sulfate. Alkaline pulping also provides for the successful recovery of chemicals used in the process. This pulping technique is the most highly used pulping process worldwide.

Sulfite pulps are generally prepared from softwoods and produce various types of paper including tissue paper and writing paper. Wood chips are boiled with calcium-based chemicals, magnesium-based chemicals, or ammonia-based chemicals. Calcium was the original sulfite liquor base, however, the spent liquor from this base was difficult and expensive to recover. Many sulfite mills have now been converted to the kraft process or have been shut down because of the problems of chemical recovery and the reduced availability of softwoods.

Semichemical pulping involves the cooking of wood chips from hardwoods with a neutral or slightly alkaline sodium sulfite solution. Both sodium and ammonia-based chemicals are used in this process. Pulps produced from semichemical pulping are used in the manufacture of corrugated paperboard. Semichemical pulping mills practice chemical recovery from the waste liquor by balancing the pH of the waste liquor. Spent liquor is then burned in a furnace.

Some facilities use secondary fibers to produce the paper products. Secondary fibers are wastepapers and may be used with little or no preparation depending on their condition. The wastepaper may be blended directly with the virgin pulps or may have to be screened and filtered to remove dirt before being added to the pulp.

Some secondary fibers must be deinked before use. In order to reclaim a useful pulp, all noncellulosic materials, such as ink, fillers, and coatings, must be removed. This process uses detergents and solvents to remove these materials. The detergents and solvents may be stored in an area exposed to storm water.

c. Bleaching. After pulping, the pulp is brown or deeply colored. The color results from the presence of lignins and resins or residue from spent cooking liquor. The pulp must be bleached to produce a light colored or white product.

A brightness scale ranging up to 100 (the brightest) is used to determine the degree of bleaching needed. For example, newspaper and food containers do not need a high degree of brightness so semibleached pulps are used. For white paper products, fully-bleached pulps are used. A bleaching sequence is followed in which specific chemicals are sequentially added. The following sequence may be used in bleaching: chlorination and washing; alkaline extraction and washing;

chlorine dioxide addition and washing; alkaline extraction and washing, and chlorine dioxide addition and washing.

The sequence may be modified to meet specific bleaching requirements. In general, less bleaching is required for mechanical pulps because they contain all of the wood substrate and would require massive amounts of bleaching. Therefore, mechanical pulps are used to produce lower quality paper products, such as telephone directories, newsprint, and disposable products. Chemical pulps may be brightened to a higher degree. Hydrosulfite, hypochlorite, chlorine, oxygen, and peroxides are used in bleaching and may be stored in areas exposed to storm water.

d. Papermaking. After pulps have been bleached, further mixing and blending may be necessary and noncellulosic materials may be added to prepare the pulp for the papermaking stage. Different types of pulp may be blended for desired effects. Softwood pulps are very strong and are used to make high strength, tear resistant paper. These pulps may be blended with hardwood pulps which add porosity, opacity, and printability qualities to the paper. Other materials may be added to the pulp such as clay, talc, or calcium carbonate to improve the texture, brightness, or opacity of the paper. By adding resin or starch, the paper becomes more ink or water resistant. Each of these additives may be a source of contamination for storm water if stored outdoors.

After noncellulosic materials have been blended with the pulp, it is ready for papermaking. The mixture of pulp and additives is called a pulp furnish. In making paper, fiber from a dilute pulp furnish is placed on a fine screen, called a wire. The water is drained through, and the fiber layer is removed, pressed and dried.

Two basic types of processes are used in papermaking: the cylinder machine and the Fourdrinier. The cylinder machine has wire cylinders which rotate in the dilute pulp furnish and collect fibers. The cylinders deposit the collected fibers on a moving felt to form a fibrous sheet. In the Fourdrinier process, the dilute pulp furnish is placed on a continuous wire belt where the fibrous sheet is formed. The cylinder machine is usually associated with the manufacturing of heavy grades of paper and paperboard; the Fourdrinier process is mostly used for producing paper, but may also be used to make paperboard.

The pressing and drying operations are similar for the two processes. After the fibrous sheet is formed, it is transferred to two or more presses to remove water and enhance smoothness and density. The sheet is then dried by being passed through heated hollow iron or steel cylinders. For a smoother finish, the sheet may be passed through a series of rollers (calendaring) used to produce high density paper.

After the sheet is dry, coatings may be applied to increase appearance, printability, water resistance, or texture. Coatings consist of a high density water slurry of pigments and adhesives that are blended together. Mixtures of starches, latices, polyvinylacetate, and recoverable solvents are used depending on the purpose of the coating. The coating is applied using rolls, air knives, blades, or metering rods. High gloss and smoothness is achieved by using high speed rollers with alternating steel and fabric-filled rolls. The coatings, when stored exposed to storm water discharges may be a source of contamination.

e. Wastewater Treatment. Most pulp, paper, and paperboard facilities have onsite wastewater treatment systems for treating process wastewater, although some facilities may discharge to a POTW. To reduce BOD_5 and TSS loads, many facilities use biological treatment. The most common treatment process is aerated stabilization. At nonintegrated facilities (facilities that do not produce pulp) and secondary fibers facilities, however, primary treatment may be the only method used. At these facilities, primary treatment is usually very effective in reducing BOD_5.

f. Activities Contributing to Storm Water Contamination. Although there is diversity among the types of final products produced at pulp, paper, and paperboard facilities, several industrial activities are common to all. These activities are presented in Table B–1 Below.

Table B–1.—Common Industrial Activities at Paper and Allied Product Manufacturing Facilities

Industrial Activities
Bactericide use
Baghouse, cyclone, dust collectors
Coating
Corrugate
Creasing
Cutting
Equipment storage
Vehicle fueling
Gluing
Rail and Truck loading areas
Material handling sites
Printing
Access Railroads
Scoring
Slitching
Storage areas
Taping

Typical activities performed at pulp, paper, and paperboard facilities include log washing, chipping and cutting of logs, log sorting, log storage, and loading and unloading of logs onto trucks or railroad cars for transport to other facilities. These log storage and handling activities may contribute bark and wood debris, TSS, and leachates to a storm water discharge. Leachates from the decay of wood products may contain high levels of TSS and BOD_5.

Many of the facilities in SIC Major group 26 employ the use of material handling equipment (forklifts, loaders, vehicles, chippers, debarkers, cranes, etc.), vehicles, and other machinery. These facilities store the equipment onsite and may also engage in equipment maintenance and repair activities. These types of activities are performed in either covered or outdoor areas of the facility. Associated with these activities is the storage of significant materials such as petroleum products and other maintenance fluids such as fuels, motor oils, hydraulic oils, lubricant fluids, brake fluids, and antifreeze. When exposed to storm water, these materials may cause contamination of a storm water discharge.

The manufacturing processes at paper and allied product manufacturing facilities are not typically exposed to storm water. Because of the lack of industrial activities occurring outdoors, the primary sources of storm water pollutants originate from materials handling, storage of materials, and waste management or disposal activities. Sources of pollutant are most often from spills and leaks of materials at loading and unloading areas, storage areas, and waste disposal areas. Table B–2 lists the materials that may be exposed to storm water at paper and allied product manufacturing facilities.

Table B–2.—Common Significant Materials at Paper and Allied Product Manufacturing Facilities

Significant Materials Onsite
Solvents
Glues
Fuels

TABLE B–2.—COMMON SIGNIFICANT MATERIALS AT PAPER AND ALLIED PRODUCT MANUFACTURING FACILITIES—Continued

Significant Materials Onsite
Oils
Lubricants
Alcohol
Starch
Wooden pallets
Paper rollstock
Waxes
Air emissions from solvent recovery processes
Baled waste paper
Dyes
Inks
Ammonia
Biocides
Miscellaneous materials removed during pulping
Final products
Adhesives
Paper wastes
Dust and particulates from cyclones used in paper trim activities, resins/polymers
Clay slurries.

3. Pollutants in Storm Water Discharges Associated With Industrial Activity From Paper and Allied Product Manufacturing Facilities

Few pollutants are expected in storm water discharges from the manufacturing of paper and allied products, because the majority of industrial activities occur indoors. Pollutants may be present in storm water as a result of outdoor activities associated with the industry such as discharges which come into contact with the following areas of the site: loading or unloading of materials; outdoor storage of raw materials or unpackaged products; outdoor process activities; dust or particulate generating processes; and illicit connections or inappropriate management practices.

The volume and quantity of storm water discharges associated with industrial activity depend upon a number of factors, including the nature of the industrial activities occurring at the facility, the nature of the precipitation, and the degree of surface imperviousness. Storm water may pick up pollutants from structures and other surfaces as it drains from the facility. Even within a group of facilities with similar activities and materials used, handled, stored, or produced, the quality of the storm water can vary greatly.

The regulatory deadline for submission of the part 2 data was October 1, 1992. Many part 2 data submittals remain incomplete and many of those that did submit data did not identify the significant material or industrial activity that may have contributed the pollutants to the storm water discharge. Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the paper and allied products manufacturing industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: paper mills; paperboard mills, paperboard containers and boxes; and converted paper and paperboard products, except containers and boxes. Tables B–2, B–3, and B–4 below include data for the eight pollutants that all facilities were required to monitor for under Form 2F. The tables also list those parameters that EPA has determined merit further monitoring. A table has not been included for paper mill facilities because less than 3 facilities submitted data in that subsector.

TABLE B–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY PAPERBOARD MILL FACILITIES SUBMITTING PART II SAMPLING DATA (MG/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	9	9	10	10	164.2	77.7	0.0	0.0	1000.0	306.0	16.0	28.0	733.9	412.7	2706.8	1153.4
COD	9	9	10	10	402.3	228.9	50.0	31.0	1720.0	780.0	200.0	124.5	1316.6	701.4	2729.5	1301.7
Nitrate + Nitrite Nitrogen	9	9	10	10	0.86	0.84	0.00	0.13	3.19	1.85	0.50	0.62	2.83	2.78	5.38	5.31
Total Kjeldahl Nitrogen	9	9	10	10	3.72	3.88	0.52	0.31	10.20	10.8	2.19	2.47	12.88	15.86	25.84	35.30
Oil & Grease	8	N/A	9	N/A	9.3	N/A	1.0	N/A	35.0	N/A	5.0	N/A	37.8	N/A	87.6	N/A
pH	9	N/A	10	N/A	N/A	N/A	7.1	N/A	.....	N/A	7.7	N/A	.....	N/A	.....	N/A
Total Phosphorus	9	9	10	10	0.37	0.31	0.08	0.09	1.50	0.56	0.27	0.29	1.04	0.71	1.86	1.07
Total Suspended Solids	9	9	10	10	401	54.5	9	8.0	3090	190.0	100	36	1840	184.7	5161	370.0

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.

[ii] Composite samples.

TABLE B–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY PAPERBOARD CONTAINERS AND BOXES FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	47	44	74	68	21.9	16.9	0.0	0.0	163.0	271.0	10.5	8.0	75.4	47.72	164.5	92.63
COD	47	44	74	67	184.8	115.8	0.0	0.0	2200.0	1400.0	79.5	51.00	596.5	350.8	1643.4	738.9
Nitrate + Nitrite Nitrogen	47	44	74	67	1.03	0.838	0.00	0.0	4.97	5.8	0.50	0.36	3.50	3.07	8.44	6.80
Total Kjeldahl Nitrogen	47	44	74	67	4.23	3.61	0.00	0.0	89.60	84.0	1.94	1.00	11.42	9.69	22.99	18.4
Oil & Grease	47	N/A	74	N/A	4.3	N/A	0.0	N/A	61.0	N/A	1.0	N/A	18.4	N/A	44.4	N/A
pH	47	N/A	72	N/A	N/A	N/A	3.8	N/A	9.0	N/A	6.8	N/A	8.8	N/A	9.5	N/A
Total Phosphorus	46	43	73	66	0.45	0.41	0.00	0.0	10.30	10.6	0.17	0.15	1.12	0.94	2.25	1.79
Total Suspended Solids	47	44	74	66	141	39.55	0	0.0	2540	550	47	12.5	658	157.88	1557	413.3

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.

[ii] Composite samples.

TABLE B–4.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY CONVERTED PAPER AND PAPERBOARD PRODUCTS, EXCEPT CONTAINERS AND BOXES MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[1] (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[2]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	19	17	37	35	26.8	24.2	0.0	0.0	152.0	567.0	6.7	8.0	98.8	70.7	239.9	157.2
COD	19	17	37	36	159.1	154.1	8.0	0.0	1300.0	1488.0	49.0	43.5	484.9	503.4	1137.2	1220.7
Nitrate + Nitrite Nitrogen	19	17	37	34	0.93	0.74	0.00	0.0	5.20	2.44	0.40	0.46	3.17	2.19	6.72	3.98
Total Kjeldahl Nitrogen	19	17	37	35	5.26	2.40	0.00	0.0	36.70	23.1	1.00	1.06	10.95	8.45	25.02	18.1
Oil & Grease	16	N/A	39	N/A	1.9	N/A	0.0	N/A	16.0	N/A	0.6	N/A	7.5	N/A	15.9	N/A
pH	19	N/A	38	N/A	N/A	N/A	4.2	N/A	8.9	N/A	7.0	N/A	8.8	N/A	9.8	N/A
Total Phosphorus	19	17	37	35	0.30	0.24	0.00	0.0	2.58	1.25	0.18	0.16	0.92	0.86	1.76	1.56
Total Suspended Solids	19	17	37	35	89	42.9	0	0.0	1240	761	16	9.0	319	160.0	893	500.8

[1] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[2] Composite samples.

4. Options for Controlling Pollutants

There are two options for reducing pollutants in storm water discharge; end-of-pipe treatment, and implementing best management practices (BMPs) to prevent and/or eliminate the contact between significant materials and storm water. A comprehensive storm water management program for a given plant may include controls from each of these categories and should be based on a consideration of site and facility plant characteristics. End-of-pipe treatment is effective for the control of process waters when the types of pollutants and the volume of water to be treated is known. However, storm water discharges from any industry, including the paper and allied product manufacturing industry, can be numerous, intermittent, and of various volumes. Therefore, the channelization of storm water that comes into contact with significant materials into a single treatment facility, or construction of numerous treatment devices for each discharge, may be burdensome and ineffective for treating pollutants contained in storm water from these types of facilities. EPA believes that the most appropriate means of storm water management at paper and allied product manufacturing facilities can be sufficiently determined by the operator of the facility.

EPA believes that the most effective storm water management control for limiting the offsite discharge of pollutants in storm water is a combination of passive and active BMPs.

Examples of BMPs range from simple housekeeping, material handling practices, preventive maintenance, diversions practices, to more advanced structural control such as detention and retention ponds and infiltration devices.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, hydrogeology and the environmental setting of each facility, volume and type of discharge generated, and number of outfalls. Each facility will be unique in that the source, type and volume of contaminated storm water discharges will differ. In addition, the fate and transport of pollutants in these discharges will vary. EPA believes that the management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with the paper and allied product manufacturing industry.

As part of the group application review process, a review of the part 1 data was analyzed. The applications indicated that numerous BMPs were already being implemented at many of the representative sites. Table B–5 provides the most common practices presently being employed and the relative percentage of facilities who are implementing them. Table B–6 provides an additional list of BMPs that may be appropriate for the industry. Many of the BMPs identified are examples of practices intended to limit the exposure of significant materials and industrial activities to storm water. Facility operators should review their current operations and consider implementing these BMPs if they are applicable to the site and are expected to reduce the discharge of pollutants from the site in storm water.

TABLE B–5.—BEST MANAGEMENT PRACTICES DISCUSSED IN PART 1 GROUP APPLICATIONS[1]

BMP	Percent of facilities
Catch Basins	22.2
Diversion structures around potential contaminants	43.8
Spill Control Procedures, Contingency Plans (SPCC)	67.4
Swales, ditches, trench or graded surfaces	51.4
Employee training	62.5

[1] Material Management Practices were identified in over 20 percent of the 144 facilities in the sampling subset.

TABLE B–6.—SUGGESTED BEST MANAGEMENT PRACTICES AT PULP AND ALLIED PRODUCTS MANUFACTURING FACILITIES

Activity	Suggested BMPs
Outdoor loading and unloading	• Confine loading/unloading activities to a designated response and control area. • Avoid loading/unloading materials in the rain. • Cover loading/unloading area/or conduct these activities indoors. • Develop and implement spill plans. • Use berms or dikes around area.

TABLE B–6.—SUGGESTED BEST MANAGEMENT PRACTICES AT PULP AND ALLIED PRODUCTS MANUFACTURING FACILITIES—Continued

Activity	Suggested BMPs
Raw and/or waste material storage areas	• Inspect containers for leaks or damage prior to loading. • Use catch buckets, drop cloths, and other spill prevention measures where liquid materials are loaded/unloaded. • Provide paved areas to enable easy collection of spilled materials. • Confine storage to a designated area. • Store materials inside. • Cover storage areas with a roof or tarp. • Use dikes or berms for storage tanks and drum storage. • Cover dumpsters used for waste paper and other materials. • Store materials on concrete pads to allow for recycling and spills of leaks. • Expedite recycling process for exposed scrap paper. • Develop and implement spill plans.
Log, lumber and other wood product storage areas.	• Provide paved areas to enable easy collection of spilled materials. • Provide good housekeeping (i.e., dust and debris collection) where cyclones are utilized. • Divert storm water around storage areas with ditches, swales, and/or berms. • Practice good housekeeping measures such as frequent removal of debris. • Line storage areas with crushed rock or gravel or porous pavement to promote infiltration, minimize discharge and provide sediment and erosion control. • Use ponds for collection, containment and recycle for log spraying operations.

5. Special Conditions

There are no requirements beyond those described in Part VI.B. of this fact sheet.

6. Storm Water Pollution Prevention Plan Requirements

There are no requirements beyond those described in Part VI.C. of this fact sheet.

a. Description of Potential Pollutant Sources. There are no requirements beyond those described in Part VI.C. of this fact sheet.

b. Measures and Controls. There are no requirements beyond those described in Part VI.C. of this fact sheet.

c. Comprehensive Site Compliance Evaluation. There are no requirements beyond those described in Part VI.C. of this fact sheet.

7. Numeric Effluent Limitation.

There are no effluent limits beyond those described in Part VI.B. of this permit.

8. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. Under the revised methodology for determining pollutants of concern for the various industrial sectors, only one subsector, paperboard mills, is required to monitor storm water discharges. As discussed previously, the median value for COD of 124.5 mg/L is higher than the benchmark value for COD of 120 mg/L for the paperboard subsector, thus triggering monitoring for COD. The monitoring requirements are presented in Table B–7 for paperboard mills.

At a minimum, storm water discharges from paperboard mills must be monitored quarterly during the second year of permit coverage. Monitoring must be performed during each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Table B–7. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE B–7.—PAPERBOARD MILLS MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Chemical Oxygen Demand	120 mg/L.

If the average concentration for a parameter is less than or equal to the cut-off concentration, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. The schedule for monitoring is presented in Table B–8.

TABLE B–8.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table B–7, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table B–7, then no further sampling is required for that parameter.

TABLE B–8.—SCHEDULE OF MONITORING—Continued

4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table B–7. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will be used to reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

(1) Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(2) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(3) Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative certification described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall on a pollutant-by-pollutant basis in lieu of monitoring described in Table B–8 under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements) of the permit, that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity, and that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in lieu of monitoring reports required under paragraph b. The permittee is required to complete any and all sampling until the exposure is eliminated. If the facility is reporting for a partial year, the permittee must specify the date exposure was eliminated. If the permittee is certifying that a pollutant was present for part of the reporting period, nothing relieves the permittee from the responsibility to sample that parameter up until the exposure was eliminated and it was determined that no significant materials remained. This certification option is not applicable to compliance monitoring requirements associated with effluent guidelines. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

b. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one Discharge Monitoring Report Form must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum requirements an additional Discharge Monitoring Report Form must be filed for each analysis. The permittee must include a measurement or estimate of the total precipitation, volume of runoff, and peak flow rate of runoff for each storm event sampled.

c. Quarterly Visual Examination of Storm Water Quality. Quarterly visual examinations of a storm water discharge from each outfall are required at all paper and allied products manufacturing facilities. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, turbidity, floating solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each designated period during daylight hours unless there is insufficient rainfall or snow-melt to runoff. Whenever practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Examinations shall be conducted in each of the following periods for the purposes of inspecting storm water quality associated with storm water runoff and snow melt: January through March; April through June; July through September; October through December. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 60 minutes) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent from one such outfall and report that the examination data also apply to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

C. Storm Water Discharges Associated With Industrial Activity From Chemical and Allied Products Manufacturing Facilities

1. Discharges Covered Under This Section

EPA regulations define "storm water discharges associated with industrial activity" at 40 CFR 122.26(b)(14) in order to specify those discharges that are required to be permitted under the NPDES program. Category (ii) of this definition includes facilities classified as Standard Industrial Classification (SIC) code 28, Chemical and Allied Products Manufacturing, with the exception of facilities classified as SIC code 285—Paints, Varnishes, Lacquers, Enamels, and Allied Products Manufacturing, which are included in category (xi) of the definition. EPA did not receive any group applications from facilities with primary SIC code 283 (Drugs Manufacturing). Therefore, as EPA had no data on such facilities, they are not eligible for coverage under this section of today's permit. The following section describes facilities covered by Part XI.C. of today's permit and the conditions and requirements of facilities covered by Part XI.C.

For additional information on the subsectors and their industrial activities, please see the following documents:

"Development Document for Effluent Limitations Guidelines and Standards for the Paint Formulating Point Source Category." EPA–440/1–79/049–b. 1979.

"Development Document for Interim Final Effluent Limitations Guidelines for the Pesticide Chemicals Manufacturing Point Source Category." EPA–440/1–75/060d. 1976.

"Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Major Organic Products Segment of the Organic Chemicals Manufacturing Point Source Category." EPA–440/1–74–009a. 1974.

"Development Document for Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for Organic Chemicals and the Plastics and Synthetic Fibers Point Source Category." EPA–440/1–87/009. 1987.

"Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Basic Fertilizer Chemicals Segment of the Fertilizer Manufacturing Point Source Category." 1974.

"Development Document for Final Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Pharmaceutical Manufacturing Point Source Category." EPA–440/1–83/084. 1983.

"Development Document for Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Inorganic Chemicals Manufacturing Point Source Category, Phase 2." EPA–440/1–84/007. 1984.

Part XI.C. of today's permit has been developed for storm water discharges at facilities primarily engaged in the manufacture of chemicals and allied products. This sector of industry includes facilities which manufacture a broad range of products including plastic and synthetic materials, detergents, paints and varnishes, drugs, fertilizers and pesticides, adhesives, inks, explosives, artist's inks and paints, and organic and inorganic chemicals used for industrial purposes. Specifically, Part XI.C. of today's permit applies to establishments primarily engaged in manufacturing:

a. Industrial inorganic chemicals (including SIC 281).

b. Plastic materials and synthetic resins, synthetic rubbers, and cellulosic

and other humanmade fibers, except glass (including SIC 282).

c. Soaps and detergents; specialty cleaning, polishing, and sanitation preparations; surface active preparations used as emulsifiers, wetting agents, and finishing agents, including sulfonated oils; perfumes, cosmetics, and other toilet preparations; glycerin made from vegetable and animal fats and oils (including SIC 284).

d. Paints (in paste and ready-mixed form), varnishes, lacquers, enamels, shellac, putties, wood fillers, and sealers, paint and varnish removers, paint brush cleaners, and allied paint products (including SIC 285).

e. Industrial organic chemicals (including SIC 286).

f. Nitrogenous fertilizers; phosphatic fertilizers; fertilizers, mixing only; pesticides; and other agricultural chemicals, not elsewhere classified (including SIC 287).

g. Industrial and household adhesives, glues, caulking compounds, sealants, and linoleum, tile, and rubber cements from vegetable, animal, or synthetic plastics materials (including SIC 2891).

h. Explosives (including SIC 2892).

i. Printing ink, including gravure, screen process, and lithographic ink, and carbon black (including SIC 2893 and 2895); and, due to the nature of manufacturing activities, EPA has included industrial facilities represented by SIC 3952 in this category, but only those primarily engaged in the manufacturing of ink and paints, including china painting enamels, india and drawing ink, platinum paints for burnt wood or leather work, paints for china painting, artists' paints and artists' water colors.

j. Miscellaneous that are not in Sections a. through i. of this part, such as fatty acids, essential oils, nonvegetable gelatin, sizes, bluing, laundry sours, writing and stamp pad ink, industrial compounds, such as boiler and heat insulating compounds, metal, oil, and water treatment compounds, waterproofing compounds, and chemical supplies for foundries (including SIC 2899).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Pollutants Found in Storm Water Discharges

Water quality impacts caused by storm water discharges associated with an industrial activity from Chemical and Allied Products Manufacturing facilities are expected to vary depending on several factors. Such factors include the geographic location and hydrology of the site, the type of manufacturing and/or industrial activities, the amount and type of operations and material storage occurring outside, imperviousness of surfaces at the site, and the impact of a given precipitation event. In addition, sources of pollutants from non-storm water discharges such as washwaters from industrial areas, illicit connections, and spills may increase the pollutant loading to waters of the United States. Because there is wide variety of products and manufacturing activities in this sector of today's permit, EPA has subdivided the chemicals and allied products manufacturing industry into "subsectors."

Part 1 of the group application required a summary of industrial activities and the significant materials stored exposed to precipitation. This provided useful qualitative information to EPA, but information that is not possible to quantify reliably due to differences in terminology and thoroughness. For the summary of industrial activities, some participants reported their industrial activity as "manufacture of product X," rather than listing the components of that main activity. Other participants listed some or all general industrial actions, e.g., "shredding" or "wastewater treatment." (Products listed represent most of the industrial classifications which are subject to this section of today's permit). Table C.1. lists the general industrial actions occurring at facilities according to part 1 of their group applications.

TABLE C–1.—INDUSTRIAL ACTIVITIES OCCURRING AT CHEMICAL AND ALLIED PRODUCT MANUFACTURERS (AS REPORTED IN PART 1 OF GROUP APPLICATIONS)

1. Storage of materials in tanks, either below or above ground.
2. Wastewater treatment, use of activated sludge process, or land application of wastewaters.
3. Bagging of materials/products.
4. Blending and mixing of chemicals.
5. Packaging of chemicals.
6. Cooling towers.
7. Crushing, Milling, Shredding, Granulation and Grinding of materials.
8. Storage of cylinders used to contain industrial gases.
9. Distribution of products.
10. Storage of empty or full drums.
11. Equipment storage and maintenance, including vehicles.
12. Application of fertilizers or pesticides.
13. Operation of a foundry.
14. Fueling of vehicles.
15. Hazardous waste temporary storage or operation of RCRA treatment, storage, or disposal facility.
16. Hot oil system for cooling/heat exchange.
17. Landfills or temporary refuse site.
18. Application of lime.
19. Loading/Unloading.
20. Use of machinery to process materials.
21. Material handling and warehousing.
22. Plant yard and areas of past industrial activity.
23. Access roads and rail tracks.
24. Steam boilers.

TABLE C–1.—INDUSTRIAL ACTIVITIES OCCURRING AT CHEMICAL AND ALLIED PRODUCT MANUFACTURERS (AS REPORTED IN PART 1 OF GROUP APPLICATIONS)—Continued

25. Thermal oxidation of lead.
26. Washing of drums.
27. Waste dumpster or compactor.

Table C–2 shows the subsectors and their corresponding SIC codes and letters (from discharges covered under this section in this fact sheet).

Part 2 of the storm water group application required that quantitative data be submitted by a representative sampling subgroup. Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the chemical and allied products industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: industrial inorganic chemicals; plastics, synthetics, and resins; drugs; soaps, detergents, cosmetics, perfumes; paints, varnishes, lacquers, enamels, and allied products; industrial organic chemicals; agricultural chemicals; and miscellaneous chemical products. Tables C–2, C–3, C–4, C–5, C–6, C–7, and C–8 below include data for the eight pollutants that all facilities were required to monitor for under Form 2F. The tables also list those parameters that EPA has determined merit further monitoring. A table has not been included for industrial organic chemical manufacturing facilities because less than 3 facilities submitted data in that subsector.

TABLE C–2.—SUBSECTOR INDEX

Subsector		SIC Code(s)
1	.....	281
2	.....	282
3	.....	284
4	.....	285
5	.....	286
6	.....	287
7	.....	289, 2891, 2892, 2893, 2894, 2899, 3952
8	.....	28[1]

[1] Subsector 8 includes those facilities that indicated their SIC code only as 28, without the following 1 or 2 digits.

TABLE C–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY INDUSTRIAL INORGANIC CHEMICALS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[1] (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[2]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	10	10	16	16	12.1	8.872	0.0	0.0	97.0	29.0	7.0	7.5	35.0	22.5	80.4	34.3
COD	10	10	16	16	101.4	69.8	20.0	0.0	850.0	520.0	60.0	36.5	209.2	185.1	453.4	334.2
Nitrate + Nitrite Nitrogen	10	10	16	16	2.79	1.58	0.00	0.07	7.30	7.1	2.40	1.25	14.72	8.24	37.34	18.7
Total Kjeldahl Nitrogen	10	10	16	16	18.71	7.09	0.00	0.5	132.00	19.4	4.09	3.15	110.69	50.0	562.00	88.9
Oil & Grease	9	N/A	15	N/A	1.9	N/A	0.0	N/A	18.0	N/A	0.1	N/A	0.5	N/A	39.7	N/A
pH	9	N/A	15	N/A	N/A	N/A	5.4	N/A	10.4	N/A	7.6	N/A	11.2	N/A	13.1	N/A
Total Phosphorus	10	10	16	16	0.88	0.83	0.00	0.0	5.53	6.14	0.34	0.40	3.32	3.19	7.55	7.61
Total Suspended Solids	10	10	16	16	156	80.4	6	0.82	700	320	90	21.5	769	558.5	2043	3258.4
Aluminum	7	7	13	13	2.41	1.7	0.49	0.06	7.82	7.87	1.06	0.77	7.02	6.83	12.8	16.47
Iron	5	5	11	11	3.0	2	0.5	0.1	8.8	7.6	2.2	1.2	10.6	8.7	21.7	21.7

[1] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[2] Composite samples.

TABLE C–4.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY PLASTICS MATERIALS AND SYNTHETIC RESINS, SYNTHETIC RUBBERS, CELLULOSIC AND OTHER MANMADE FIBERS EXCEPT GLASS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[1] (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[2]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	16	14	41	36	11.5	11.4	0.0	1.0	66.0	66.0	5.0	5.0	34.1	34.2	62.6	64.8
COD	17	15	42	38	58.1	52.6	0.0	0.0	162.0	169.0	38.5	35.5	191.7	142.6	360.6	237.7
Nitrate + Nitrite Nitrogen	17	15	43	39	4.31	5.35	0.00	0.0	140.00	150.0	0.76	0.56	7.67	8.88	20.81	23.1
Total Kjeldahl Nitrogen	17	15	42	38	3.51	3.96	0.20	0.0	47.00	58.8	1.50	1.40	9.67	10.6	20.29	22.0
Oil & Grease	16	N/A	42	N/A	2.0	N/A	0.0	N/A	15.0	N/A	0.0	N/A	10.2	N/A	22.4	N/A
pH	15	N/A	42	N/A	N/A	N/A	3.6	N/A	7.7	N/A	6.6	N/A	8.4	N/A	9.4	N/A
Total Phosphorus	17	15	43	39	0.40	0.41	0.00	0.0	4.20	4.40	0.11	0.07	1.45	1.56	3.60	4.27
Total Suspended Solids	17	15	42	38	157	94.6	0.0	0.0	2700	518	80	26.5	570	345.4	1666	845.5
Zinc	14	12	36	31	0.391	0.426	0	0	2.1	2.07	0.19	0.20	1.427	1.712	3.183	4.031

[1] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[2] Composite samples.

TABLE C–5.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY SOAPS, DETERGENTS, AND CLEANING PREPARATIONS; PERFUMES, COSMETICS, AND OTHER TOILET PREPARATIONS FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	12	13	19	20	53.2	23.2	0.0	0.0	340.0	100.0	16.0	8.5	238.2	89.8	888.7	252.6
COD	12	12	19	19	245.3	132.5	28.0	0.0	1200.0	550.0	120.0	80.0	834.2	406.8	1803.7	1015.5
Nitrate + Nitrite Nitrogen	12	12	19	19	1.40	0.97	0.00	0.0	5.00	4.2	1.16	0.76	3.80	3.17	12.16	8.97
Total Kjeldahl Nitrogen	12	12	19	19	3.48	2.3	0.80	0.0	11.40	5.0	2.60	1.4	8.90	6.33	14.73	12.2
Oil & Grease	12	N/A	19	N/A	4.6	N/A	0.0	N/A	40.0	N/A	0.0	N/A	21.1	N/A	40.0	N/A
pH	12	N/A	19	N/A	N/A	N/A	3.5	N/A	8.0	N/A	7.1	N/A	9.1	N/A	10.5	N/A
Total Phosphorus	12	12	19	19	1.60	0.57	0.00	0.0	9.00	1.9	0.40	0.40	8.93	2.34	8.97	5.20
Total Suspended Solids	13	13	20	20	313	154	5	0.0	1527	600	74	59	1519	633.2	4714	1744
Zinc	6	6	7	7	1.584	0.941	0.13	0.15	4.8	2.7	0.41	0.26	7.438	3.761	20.20	9.146

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE C–6.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY PAINTS, VARNISHES, LACQUERS, ENAMELS, AND ALLIED PRODUCTS FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	3	3	3	3	4.7	20.7	0.0	12.0	11.0	36.0	3.0	14.0	21.6	48.8	42.2	72.7
COD	3	3	3	3	50.3	42.3	0.0	0.0	84.0	72.0	57.0	55.0	94.4	82.8	106.1	95.1
Nitrate + Nitrite Nitrogen	3	3	3	3	0.43	0.53	0.00	0.0	1.20	1.3	0.09	0.26	4.59	2.88	17.50	6.36
Total Kjeldahl Nitrogen	3	3	3	3	1.27	1.56	0.30	0.60	1.90	2.78	1.62	1.30	5.34	4.57	10.52	7.70
Oil & Grease	3	N/A	3	N/A	4.7	N/A	0.0	N/A	9.6	N/A	4.6	N/A	14.1	N/A	20.6	N/A
pH	3	N/A	3	N/A	N/A	N/A	6.7	N/A	7.7	N/A	7.1	N/A	8.0	N/A	8.4	N/A
Total Phosphorus	3	3	3	3	0.24	0.23	0.02	0.13	0.26	0.30	0.24	0.25	0.26	0.44	0.29	0.59
Total Suspended Solids	3	3	3	3	433	47.0	4	2.0	824	130	470	20	14276	429.9	104964	1515.8

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE C–7.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY AGRICULTURAL CHEMICALS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	17	17	27	27	4.2	5.00	0.0	0.0	13.0	43.5	4.0	4.0	10.6	19.5	15.2	55.3
COD	17	17	27	27	70.3	45.3	0.0	0.0	400.0	150	55.0	38.0	239.5	166.3	472.2	325.4
Nitrate + Nitrite Nitrogen	12	12	22	22	43.86	19.47	0.00	0.00	315.00	85.0	3.78	0.88	220.52	119.0	896.55	409.7
Total Kjeldahl Nitrogen	17	17	27	27	75.70	92.1	0.00	0.8	1020.00	1460.0	10.00	12.00	214.61	250.0	710.55	777.61
Oil & Grease	17	N/A	28	N/A	5.6	N/A	0.0	N/A	95.0	N/A	0.0	N/A	36.6	N/A	121.2	N/A
pH	15	N/A	0	5N/A	N/A	N/A	5.3	N/A	7.8	N/A	7.1	N/A	8.0	N/A	8.5	N/A
Total Phosphorus	17	17	27	27	15.80	54.86	0.13	0.19	110.00	685.0	5.00	11.0	80.54	190.16	252.70	883.3
Total Suspended Solids	17	15	27	25	434	113	0	0	5162	853.0	105	58	1734	510.8	5606	1251.8
Iron	4	4	9	9	5.3	3.6	0.6	0.6	22	11	1.8	1.5	16	13.2	42.6	28.3
Lead	4	4	6	6	0.004	0.042	0	0	0.167	0.104	0.1	0.03	0.348	0.119	0.652	0.193
Zinc	5	5	10	10	1.527	0.062	0.075	0.060	7.7	4.2	0.58	0.40	6.997	3.116	19.075	8.915

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE C–8.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY MISCELLANEOUS CHEMICAL PRODUCTS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA; (mg/L)

Pollutant	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	18	14	30	21	143.2	11.3	0.0	0.0	3420.0	96.0	9.0	6.0	126.6	56.3	853.6	51.4
COD	19	15	28	23	70.4	53.3	0.0	19.0	394.0	282.0	42.5	41.0	180.6	150.1	300.5	247.1
Nitrate + Nitrite Nitrogen	19	14	28	22	0.97	1.00	0.00	0.0	6.86	3.12	0.57	0.60	3.37	3.22	5.75	6.18
Total Kjeldahl Nitrogen	19	15	31	23	1.61	1.34	0.00	0.0	5.50	4.1	1.40	1.10	5.60	4.25	11.27	7.45
Oil & Grease	20	N/A	29	N/A	4.4	N/A	0.0	N/A	23.0	N/A	2.0	N/A	16.8	N/A	32.3	N/A
pH	20	N/A	29	N/A	N/A	N/A	4.6	N/A	9.3	N/A	7.3	N/A	9.2	N/A	10.1	N/A
Total Phosphorus	20	15	29	23	0.18	0.11	0.00	0.0	1.63	0.39	0.07	0.10	0.65	0.32	1.29	0.46

TABLE C–8.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY MISCELLANEOUS CHEMICAL PRODUCTS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA; (mg/L)—Continued

Pollutant	# of Facilities		# of Samples			Limit	Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[2]	Grab	Comp	Mean	Comp	Grab	Comp	Limit	Comp	Limit	Comp	Limit	Comp	Grab	Comp
Total Suspended Solids	10	15	[illegible]	23	[illegible]	47.3	0	0.0	415	350	13	8.0	246	220.5	726	567.3

[1] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[2] Composite samples.

3. Options for Controlling Pollutants

As required in part 1 of the storm water group permit application, participants were required to provide information regarding existing storm water management practices and controls. Table C–9 below identifies the material management practices for the identified sampling facilities.

TABLE C–9.—CURRENT STORM WATER MANAGEMENT PRACTICES USED BY THE CHEMICAL AND ALLIED PRODUCTS MANUFACTURING INDUSTRY (AS REPORTED IN PART 1 OF THE GROUP APPLICATIONS)[1]

Subsector	Current management practices
1	Unloading Boot, Catch Basin, Containment, Covering, Curbing, Dike Diversion, Housekeeping, Inspection of Equipment, Infiltration, Oil/Water Separator, Roof, SPCC, Sump, Storm Water Collector for Water Reuse, Training, Indoor Storage.
2	Catch Basin, Covering, Dike, Indoor Storage, Pond, SPCC, Swale, Vegetation Strip.
3	Caps on Tank Vents, Concrete Pad, Containment, Covering, Curbing, Dike, Diversion, Drain, Hazardous Waste Management, Hazardous Waste Pad, Holding Tank, Indoor Storage, Infiltration, Pond, Roof, Sealed Drums, SPCC, Storm Water Collector, Tarp, Vaulted.
4	Containment, Covering, Dike, Holding Tank, Infiltration, Pond, Roof Drain, Site Inspection, SPCC, Swale, Training, Waste Minimization.
5	Curbing, Dike, Pond, SPCC.
6	Catch Basin, Covering, Dike, Housekeeping, Indoor Storage, Infiltration, Oil/Water Separator, Pond, Roof, Site Inspection, SPCC, Sump, Swale, Sweep, Valves.
7	Absorbent Materials, BMP Plan, Catch Basin, Concrete Pad, Containment, Covering, Curbing, Dike, Drain, Drip Pan, Housekeeping, Indoor Storage, Infiltration, Oil/Water Separator, Pond, Roof, Inspection, Sloped Containment, SPCC, Sump, Swale, Training, Valves.
8	Catch basin, Containment, Covering, Dike, Indoor Storage, Pond, Roof, Site Inspection, SPCC, Swale, Training.

[1] The information presented in this table was received from part 1 group applications for Sector 3.

In order to develop achievable storm water management practices and controls, EPA has evaluated all existing management practices as well as practices developed and implemented under the September 9, 1992, storm water general permit. For a detailed explanation regarding specific storm water controls and management practices, the reader may refer to the pollution prevention plan requirements section below.

4. Special Conditions

a. Prohibition of Non-storm Water Discharges. In addition to the discharges prohibited under Part III.A.2 of today's permit, EPA has specified that the following types of discharges are not authorized by this section:

(1) Inks, paints or substances (hazardous, nonhazardous, etc.) resulting from an onsite spill including materials collected in drip pans.

(2) Washwaters from material handling and processing areas. This includes areas where containers, equipment, industrial machinery, and any significant materials are exposed to storm water.

(3) Washwaters from drum, tank or container rinsing and cleaning.

EPA has included these prohibitions in order to emphasize that spilled materials should be cleaned up and properly disposed, and that washwaters constitute process wastewater and not storm water. These types of discharges contribute excessive amounts of pollutants to water bodies and must be permitted by an NPDES permit for process wastewater, as they are not authorized by this section.

5. Storm Water Pollution Prevention Plan Requirements

a. Contents of the Plan. Today's permit requires that all facilities covered under this section prepare a Drainage and Site Plan. Based on the information contained in the part 1 application, EPA has identified and specified areas where materials are commonly handled. EPA is requiring that the site plan detail the drainage patterns of the runoff and identify the outfall and receiving water body. [Language on site map not included.]

(1) Description of Potential Pollutant Sources. The Inventory of Exposed Materials as well as Risk Identification and Summary of Potential Pollutants Sources requirements were further defined to avoid confusion. In addition, EPA is requiring that the information submitted in the group application regarding pollutant sources and current management practices be evaluated and considered when developing the plan.

Measures and Controls. EPA has divided this section of the permit into two parts. The first part addresses nonstructural pollution prevention controls, while the second part addresses structural controls.

The following requirements were established by EPA under the nonstructural conditions to identify specific practices that must be implemented by all permittees:

(a) Good Housekeeping—In addition to the information provided in the group application process, EPA conducted a series of inspections to identify areas of concern, materials exposed to storm water and current management practices used by the chemicals and allied products manufacturing industry. EPA also reviewed a series of existing pollution prevention plans that were developed under the requirements of the baseline general permit. Based on this information, EPA is requiring that at a minimum, permittees shall consider establishing the following good housekeeping practices:

(i) Schedule regular pickup and disposal of garbage and waste materials or other measures to dispose of waste. This schedule may be included in the plan. Individuals responsible for waste management and disposal should be informed of the procedures established under the plan,

(ii) Routinely inspect for leaks and conditions of drums, tanks and containers. Ensure that spill cleanup procedures are understood by employees,

(iii) Keep an up-to-date inventory of all materials present at the facility. While preparing the inventory, all containers should be clearly labeled. Hazardous containers that require special handling, storage, use and disposal considerations should be clearly marked and readily recognizable,

(iv) Maintain clean ground surfaces by using brooms, shovels, vacuum cleaners or cleaning machines.

(b) Employee Training—Training should also address procedures for equipment and containers cleaning and washing. The training should emphasize the human hazards and the potential environmental impacts from the discharges of washwaters. In addition, today's permit requires that the pollution prevention plan for chemical and allied products manufacturing facilities identify periodic dates for such training of at least once per year. EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan.

(c) Inspections—Qualified personnel shall conduct quarterly inspections. A wet weather inspection (during a rainfall event) shall be conducted in the second (April to June) and third quarters (July to September) of each year. A dry weather inspection (no precipitation) shall be conducted in the first (January to April) and fourth quarters (October to December).

However, where a seasonal arid period is sustained for more than 3 months, a dry weather inspection will satisfy the wet weather inspection requirement. This requirement will assure that permittees conduct at least one inspection every quarter.

EPA believes that this requirement will satisfy the requirements of this section by measuring the effectiveness of the pollution prevention plan during dry and wet weather conditions. These inspections will increase awareness and responsibility for storm water pollution. Moreover, conducting these dry and wet weather inspections on a quarterly basis will provide permittees with a tool for evaluating best management practices, structural and nonstructural measures, good housekeeping and spill cleaning procedures, among other pollution prevention activities.

(d) Facility Security—Facilities should consider evaluating existing security systems such as fencing, lighting, vehicular traffic control, and securing of equipment and buildings and should include existing and new system into the plan to prevent accidental or intentional entry which could cause a discharge of pollutants to waters of the United States.

(e) Structural Storm Water Management Controls—Under the structural conditions, EPA has identified specific practices that should be considered by all permittees. These structural practices are divided into four activities/areas: material handling and storage; management of runoff; sediment and erosion control; and sampling.

(f) Practices for Material Handling and Storage Areas—Under material handling and storage, EPA is recommending a series of management practices to minimize materials exposed to precipitation. These areas were selected after evaluation of part 1 data and current practices used by the group participants. For areas where liquid or powdered materials are stored, facilities shall consider providing either diking, curbing, or berms. For all other outside storage areas including storage of used containers, machinery, scrap and construction materials, and pallets, facilities shall consider preventing or minimizing storm water runon to the storage area by using curbing, culverting, gutters, sewers or other forms of drainage control. For all storage areas, roofs, covers or other forms of appropriate protection shall be considered to prevent exposure to weather. In areas where liquid or powdered materials are transferred in bulk from truck or rail cars, permittees shall consider appropriate measures to minimize contact of material with precipitation. Permittees shall consider providing for hose connection points at storage containers to be inside containment areas and drip pans to be used in areas which are not in a containment area, where spillage may occur (e.g., hose reels, connection points with rail cars or trucks) or equivalent measures. In areas of transfer of contained or packaged materials and loading/unloading areas, permittees shall consider providing appropriate protection such as overhangs or door skirts to enclose trailer ends at truck loading/unloading docks or an equivalent.

In order to prevent facilities from discharging contaminated storm water from areas where precipitation is contained, contained areas should be restrained by valves or other positive means to prevent the discharge of a spill or leak. Containment units may be emptied by pumps or ejectors; however, these should be manually activated. Flapper-type drain valves should not be used to drain containment areas. Valves used for the drainage of containment areas should, as far as is practical, be of manual, open-or-closed design. If facility drainage is not engineered as above, the final discharge point of all in-facility sewers should be equipped to prevent the discharge in the event of an uncontrolled spill of materials.

(g) Management of Runoff—Under management of runoff conditions, EPA is requiring that the plan contain a description of storm water management practices used and/or to be used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site.

(h) Sediment and Erosion Control—For areas with a potential for significant soil erosion, the permittee should describe permanent stabilization practices to be used in order to stabilize disturbed areas. The measures will minimize the amount of sediment materials in the discharge.

(i) Non-storm Water Discharges—There are no additional requirements beyond those described in Part VI.C of this fact sheet.

(j) Comprehensive Site Compliance Evaluation—In accordance with 40 CFR 122.24(i)(4)(i), EPA has established that comprehensive site compliance evaluations be conducted at least once every year. Members of the pollution prevention team or a qualified professional designated by the team must conduct the evaluation. Requirements for the evaluation are listed under Part VI.C.4 of this fact sheet.

6. Numeric Effluent Limitations

a. Phosphate Fertilizer Manufacturing Runoff. Part XI.C.5.a. of today's permit establishes numeric effluent limitations for storm water discharges from facilities identified by SIC 287, the Phosphate Subcategory of the Fertilizer Manufacturing Point Source Category, which are subject to effluent limitations guidelines at 40 CFR Part 418. The term contaminated storm water runoff shall mean precipitation runoff, which during manufacturing or processing, comes into incidental contact with any raw

materials, intermediate product, finished product, by-products or waste product. The concentration of pollutants in storm water discharges shall not exceed the following effluent limitations included in Table C–10 below:

TABLE C–10

Effluent characteristics	Effluent limitations (mg/L)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Total Phosphorus (as P)	105.0	35.0
Fluoride	75.0	25.0

Facilities with discharges as described above must be in compliance with these effluent limitations upon commencement of coverage and for the entire term of this permit. Discharges that are associated with industrial activities that do not contain runoff from the areas or activities specified above are not subject to the effluent limitation in Table C–10 above.

7. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. EPA believes that chemical manufacturing facilities may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. Under the revised methodology for determining pollutants of concern for the various industrial sectors, four subsectors in the chemical and allied products manufacturing sector must monitor their storm water discharges. The monitoring requirements are presented in Tables C–11, C–12, C–13, and C–14 for agricultural chemical manufacturing facilities; industrial inorganic chemical facilities; soaps, detergents, cosmetics, and perfume manufacturing facilities; and plastics, synthetics, and resin manufacturing facilities. The pollutants listed in Tables C–11, C–12, C–13, and C–14 were found to be above benchmark levels. Because these pollutants have been reported at benchmark levels from agricultural chemical facilities; industrial inorganic chemical facilities; soaps, detergents, synthetics, and resin manufacturing facilities, EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, nitrate plus nitrite nitrogen is above the bench mark concentrations for the plastics, synthetics, and resins subsector. After a review of the nature of industrial activities a .d the significant materials exposed to storm water described by facilities in this subsector, EPA has determined that the higher concentrations of nitrate plus nitrite nitrogen are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require plastics, synthetics, and resins facilities to conduct analytical monitoring for this parameter.

At a minimum, storm water discharges from agricultural chemical facilities; industrial inorganic chemical facilities; soaps, detergents, cosmetics, and perfume manufacturing facilities; and plastics, synthetics, and resin manufacturing facilities must be monitored quarterly during the second year of permit coverage. Samples must be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Tables C–11, C–12, C–13, and C–14. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE C–11.—AGRICULTURAL CHEMICALS MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Nitrate plus Nitrite Nitrogen	0.68 mg/L
Total Recoverable Lead	0.0816 mg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Zinc	0.065 mg/L
Phosphorus	2.0 mg/L

TABLE C–12.—INDUSTRIAL INORGANIC CHEMICALS MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Recoverable Aluminum	0.75 mg/L
Total Recoverable Iron	1.0 mg/L
Nitrate plus Nitrite Nitrogen	0.68 mg/L

TABLE C–13.—SOAPS, DETERGENTS, COSMETICS, AND PERFUMES MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Nitrate plus Nitrite Nitrogen	0.68 mg/L
Total Recoverable Zinc	0.065 mg/L

TABLE C–14.—PLASTICS, SYNTHETICS, AND RESIN MANUFACTURING MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Recoverable Zinc	0.065 mg/L

If the average concentration for a parameter is less than or equal to the cut-off concentration, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. The schedule for monitoring is presented in Table C–15.

TABLE C–15.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Tables C–11, C–12, C–13, and C–14, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Tables C–11, C–12, C–13, and C–14, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Tables C–11, C–12, C–13, and C–14. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will be used to reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

(b). Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative certification described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring described in Tables C–11, C–12, C–13, and C–14, that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity, and that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in lieu of monitoring reports required under paragraph *c.* below. The permittee is required to complete any and all sampling until the exposure is eliminated. If the facility is reporting for a partial year, the permittee must specify the date exposure was eliminated. If the permittee is certifying that a pollutant was present for part of the reporting period, nothing relieves the permittee from the responsibility to sample that parameter up until the exposure was eliminated and it was determined that no significant materials remained. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report Form must be submitted to the Director per storm event sampled. For facilities conducting monitoring beyond the minimum requirements, an additional signed Discharge Monitoring Report Form must be filed for each analysis. The permittee must include a measurement or estimate of the total precipitation, volume of runoff, and peak flow rate of runoff for each storm event sampled.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30

minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable, permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

f. Compliance Monitoring Requirements. Today's permit requires permittees with phosphate fertilizer manufacturing facilities with contaminated storm water discharges to monitor for the presence of phosphorus and fluoride. These monitoring requirements are necessary to evaluate compliance with the numeric effluent limitation for these discharges. Monitoring shall be performed upon a minimum of one grab sample. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. Monitoring results shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the month following collection of the sample. Facilities which discharge through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must also submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system. Alternative Certification provisions described in Section XI.C.5 of the permit do not apply to facilities subject to compliance monitoring requirements in this section. Compliance monitoring is required at least annually for discharges subject to effluent limitations. Therefore, EPA cannot permit a facility to waive compliance monitoring.

Phosphate fertilizer manufacturing facilities are not required to collect and analyze separate samples for the presence of total phosphorus to satisfy the Compliance Monitoring requirements of Section XI.C.6.c. during a year in which the facilities have collected and analyzed samples for total phosphorus in accordance with the Analytical Monitoring Requirements of Section XI.C.6.a. The results of all Analytical Monitoring analyses may be reported as Compliance Monitoring results in accordance with Section XI.C.5.d.(3) where the monitoring methodologies are consistent.

g. Quarterly Visual Examination of Storm Water Quality. Chemical and allied products manufacturing facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) must be made at least once in each of the following 3-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfall and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.). EPA realizes that if a facility is inactive and

unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

D. Storm Water Discharges Associated With Industrial Activity From Asphalt Paving and Roofing Materials Manufacturers and Lubricant Manufacturers

1. Discharges Covered Under This Section

On November 16, 1990 (55 FR 47990), EPA promulgated the regulatory definition of "storm water discharges associated with an industrial activity." This definition includes point source discharges of storm water from eleven major categories of facilities, including facilities commonly identified by Standard Industrial Classification (SIC) 29. Today's permit only covers storm water discharges associated with industrial activities at facilities which manufacture asphalt paving mixtures and blocks (SIC code 2951), asphalt felts and coatings (SIC code 2952), and lubricating oils and greases (SIC code 2992). Hereinafter, facilities with primary SIC codes 2951 or 2952 will be referred to as "Asphalt Facilities," and facilities with primary SIC code 2992 as "Lubricant Manufacturers."

Section XI.D of today's permit does not apply to renderers of fats and oils, petroleum refining facilities or to oil recycling facilities. Petroleum refining facilities are not eligible for coverage under today's permit, because these types of facilities did not participate in the group application process. Renderers of fats and oils are covered under Section XI.U of today's permit. Oil recycling facilities are covered under Section XI.N of today's permit. These facilities are more appropriately grouped with the liquid waste recyclers covered under Section XI.N.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

This section is applicable to storm water discharges from portable plants. Although portable plants were not included in the group application process the significant materials and industrial activities conducted at these facilities are sufficiently similar to permanent facilities to allow coverage. This section is applicable to storm water discharges from portable plants, with the condition that a new Notice of Intent (NOI) be submitted for each location and the pollution prevention plan be revised accordingly with each change in location.

a. Industry Profile. Presented below are brief descriptions of the industrial activities associated with asphalt facilities and lubricant manufacturers. Table D–1 shows some common significant materials exposed at these types of facilities.

TABLE D–1.—ACTIVITIES, POLLUTANT SOURCES, AND POLLUTANTS [i, ii]

Activity	Pollutant source	Pollutant
Asphalt Paving Manufacturing Facilities		
Material Storage and Handling	Additives, asphalt, asphalt cement, asphalt concrete, asphalt products, asphalt release agents, crushed stone, fuel, granite, granules, gravel, limestone, lubricants, mineral spirits, oil, quartzite rock, reclaimed asphalt pavement (RAP), sand, sandstone, slag.	TSS, Oil and Grease, pH, COD.
Asphalt Roofing Material Manufacturers		
Material Storage and Handling	Mineral spirits, asphalt, asphalt cutbacks, asphalt shingles, limestone, sand, slag, asphalt rolls, asphalt felt, talc oil and fuel.	TSS, Oil and Grease, pH and COD.
Lubricant Manufacturers		
Material Storage and Handling	Oils, waste solvents, petroleum distillates, lubricants, chemical additives.	Oil and Grease, pH, TSS.

[i] Storm water group applications, parts 1 and 2.
[ii] EPA. Development Document on Paving and Roofing Materials (EPA 440/1–74/049).

(1) Manufacturers of Asphalt Paving Mixtures and Blocks (SIC 2951). Manufacturers classified in SIC 2951 store purchased asphalt in above ground tanks. They stockpile a variety of raw materials such as sand, gravel, crushed limestone, and recycled asphalt products (RAP). These facilities produce asphalt concrete, and may also mold and cure asphalt concrete products such as asphalt blocks. There are two types of facilities associated with these activities, batch plants and drum plants.

Batch plants receive aggregate (sand, stone, limestone, gravel, etc.) in bulk by rail or truck. The aggregate is usually stockpiled outside. It is then transported by a conveyor or front-end loader to a rotary drier. When dried and heated the aggregate is transported to a screening unit which separates the aggregate into various sizes and deposits the graded aggregate into hot storage bins. Aggregate and mineral filler are then weighed and transported to a mixing unit or pug mill where they are mixed with heated asphalt cement to produce asphalt concrete. The resulting asphalt concrete is either stored in a heated silo or loaded directly onto trucks for transport to the job site.

At drum (cold feed) plants a measured amount of aggregate is placed in the drum where it is dried and heated. Heated asphalt cement is added to the

same drum and mixed with the aggregate to produce asphalt concrete. The hot asphalt concrete produced by this process then goes to a surge bin or silo for storage until it is loaded onto trucks for delivery.

Hot-mix asphalt plants are often portable. There are three types of portable plants: portable, permanent, and semipermanent. Portable plants move from site to site, and the significant materials and equipment are removed upon completion of the job or project. Portable plants remain at a site anywhere from several days to several months. Permanent portable plants remain at a site on a permanent basis.

Like portable plants, semipermanent plants move from site to site. They differ, however, in that they return to locations on a recurring basis. Significant materials such as aggregate piles remain at the site while the plant is operating elsewhere. For the purposes of this section, semipermanent plants will be referred to as permanent plants, given that the effect on runoff from significant materials will essentially be the same at both sites. 'Asphalt facilities' includes both permanent and portable plants unless specified otherwise.

Facilities which manufacture asphalt concrete block feed the asphalt/aggregate mixture into a block molding machine where the mix is rammed, pressed or vibrated into its final form. The product is then stacked and allowed to cure.

(2) Manufacturers of Roofing Materials (SIC 2952). Manufacturers classified in standard industrial code 2952 typically produce bitumen-based roofing products such as asphalt shingles, built-up roofing (BUR), modified bitumen sheet material, asphalt saturated felts and bitumen-based root coatings, mastics and cements.

The typical manufacturing of bitumen based roofing products, such as shingles, BUR, modified bitumen sheet materials and asphalt saturated felt is a continuous stationary process performed on a roofing machine that begins with a roll of base material such as fiberglass mat, polyester or organic felt, coated or saturated with an asphalt or blend, surfaced with mineral granules, and concludes with a finished product. The sequence of indoor operations builds the product up in stages, adding different raw materials along the way and monitoring their application.

Bitumen-based coatings, mastics and cements are produced inside in a stationary process mixing raw materials received in bulk and containers and blended into finished batches of product. "Batch processing" is the common production method relying on the same piece of equipment in manufacturing a variety of products. The products are packaged in containers or stored for bulk shipment.

(3) Manufacturers of Lubricating Oils and Greases (SIC 2992). Facilities primarily engaged in blending, compounding, and re-refining lubricating oils and greases from purchased mineral, animal, and vegetable materials are identified as SIC code 2992. SIC code 2992 includes manufacturers of metalworking fluids, cutting oils, gear oils, hydraulic brake fluid, transmission fluid, and other automotive and industrial oil and greases.

Raw materials for SIC code 2992 facilities are typically petroleum or synthetic-based stocks and various additives. The majority of lubricating manufacturers store base stocks and chemical additives in tank farms or 55-gallon drums. SIC code 2992 facilities do not manufacture these raw materials, but rather blend and compound them to produce the product. Raw materials are proportioned according to the type of lubricant being produced.

"Batch processing" is the common production method relying on the same piece of equipment in manufacturing a variety of products. For example, in one "batch" a facility may combine the petroleum base stock with additive X in a 10,000 gallon blending tank to produce product "A." Using the same blending tank, the next "batch" is a mixture of the base stock and additive Y to produce product "B." Batch processing allows facilities to manufacture a variety of products. Some facilities, however, tend to specialize in producing a particular type of lubricant (e.g., solid, synthetic, or water-based), often to meet the demands of a specific industry.

Finished products are packaged in containers or stored for bulk shipment. Almost all facilities have shipping and receiving areas and are involved with marketing and interstate distribution of their products. Most facilities have immediate access roads or rail lines at their facility sites.

2. Pollutants in Storm Water Discharges Associated With Asphalt Facilities and Lubricant Manufacturers.

Impacts caused by storm water discharges from asphalt facilities and lubricant manufacturers will vary. Several factors influence to what extent significant materials from these types of facilities and processing operations may affect water quality. Such factors include: geographic location; hydrogeology; the type of industrial activity occurring outside (e.g., material storage, loading and unloading); the type of material stored outside (e.g., asphalt, aggregate, limestone, oil, etc.); the size of the operation; and type, duration, and intensity of precipitation events. These and other factors will interact to influence the quantity and quality of storm water runoff. For example, air emissions (i.e., settled dust) may be a significant source of pollutants at some facilities, while materials storage is a primary source at others. In addition, sources of pollutants other than storm water, such as illicit connections,[38] spills, and other improperly dumped materials, may increase the pollutant loadings discharged into waters of the United States.

Based on group application information and data, EPA has identified the storm water pollutants and sources resulting from asphalt facilities and lubricant manufacturers in Tables D–2 and D–3.

Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the asphalt paving and roofing materials manufacturers and lubricating oils and greases manufacturers industry into 2 subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: asphalt paving and roofing materials and lubricating oils and greases manufacturers. The tables below include data for the eight pollutants that all facilities were required to monitor under Form 2F.

[38] Illicit connections are contributions of unpermitted non-storm water discharges to storm sewers from any of a number of sources including sanitary sewers, industrial facilities, commercial establishments, or residential dwellings. The probability of illicit connections at mineral mining and processing facilities is low yet it still may be applicable at some operations.

TABLE D–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY ASPHALT PAVING AND ROOFING MATERIALS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th Percentile		[illegible] Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	25	[illegible]	[illegible]	41	52.5	13.9	0.0	0.0	1220.0	161.0	[illegible]	5.0	101.2	[illegible]	[illegible]	[illegible]
COD	26	22	46	[illegible]	232.4	[illegible]	0.0	0.0	2740.0	[illegible]	[illegible]	70.5	[illegible]	[illegible]	1897.7	2343.1
Nitrate + Nitrite Nitrogen	[illegible]	[illegible]	[illegible]	41	1.02	[illegible]	[illegible]	0.0	19.0	12.0	0.44	0.41	3.43	2.15	8.17	[illegible]
Total Kjeldahl Nitrogen	25	[illegible]	[illegible]	[illegible]	2.24	1.74	[illegible]	0.0	[illegible]	18.0	1.10	[illegible]	6.75	4.78	13.22	9.19
Oil & Grease	27	N/A	47	N/A	5.5	N/A	0.0	N/A	76.0	N/A	1.3	N/A	21.8	N/A	[illegible]	N/A
pH	[illegible]	N/A	47	N/A	N/A	N/A	2.4	N/A	[illegible]	N/A	7.2	N/A	10.1	N/A	11.8	N/A
Total Phosphorus	[illegible]	22	[illegible]	41	0.49	0.51	[illegible]	0.0	[illegible]	4.30	0.14	0.19	[illegible]	1.56	[illegible]	3.38
Total Suspended Solids	[illegible]	[illegible]	[illegible]	41	[illegible]	509.6	6	0.0	8050	[illegible]	[illegible]	145	[illegible]	[illegible]	12103	[illegible]

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE D–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY (LUBRICANT OILS AND GREASES MANUFACTURERS) SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th Percentile		[illegible] Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	13	8	15	10	10.7	6.70	[illegible]	0.0	47.0	[illegible]	4.0	4.0	[illegible]	[illegible]	75.2	[illegible]
COD	15	10	17	12	108.7	[illegible]	10.0	10.0	[illegible]	142.6	42.0	55.1	[illegible]	175.5	[illegible]	314.1
Nitrate + Nitrite Nitrogen	13	[illegible]	15	10	[illegible]	0.77	[illegible]	0.0	[illegible]	[illegible]	0.21	[illegible]	5.01	2.88	17.2	[illegible]
Total Kjeldahl Nitrogen	15	9	17	11	1.76	1.24	[illegible]	0.19	[illegible]	3.0	1.10	1.10	5.17	[illegible]	[illegible]	[illegible]
Oil & Grease	[illegible]	N/A	[illegible]	N/A	7.8	N/A	0.0	N/A	55.0	N/A	2.0	N/A	[illegible]	N/A	82.2	N/A
pH	14	N/A	[illegible]	N/A	N/A	N/A	5.7	N/A	7.9	N/A	7.1	N/A	[illegible]	N/A	[illegible]	N/A
Total Phosphorus	15	10	17	12	0.41	[illegible]	[illegible]	0.01	[illegible]	[illegible]	0.11	0.14	1.30	1.23	[illegible]	3.18
Total Suspended Solids	15	10	17	12	271	206	[illegible]	2	3870	[illegible]	[illegible]	[illegible]	[illegible]	592	[illegible]	[illegible]

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

3. Options for Controlling Pollutants

In evaluating options for controlling pollutants in storm water discharges, EPA must achieve compliance with the technology-based standards of the Clean Water Act [Best Available Technology (BAT) and Best Conventional Technology (BCT)]. This section establishes requirements for the development and implementation of a site-specific storm water pollution prevention plan consisting of a set of BMPs that are sufficiently flexible to address different sources of pollutants at different sites.

Two types of BMPs which may be implemented to prevent, reduce or eliminate pollutants in storm water discharges are those which minimize exposure (e.g., covering, curbing, or diking) and treatment type BMPs which are used to reduce or remove pollutants in storm water discharges (e.g., oil/water separators, sediment basins, or detention ponds). EPA believes exposure minimization is an effective practice for reducing pollutants in storm water discharges from asphalt facilities and lubricant manufacturers. Exposure minimization practices lessen the potential for storm water to come in contact with pollutants. These methods are often uncomplicated and inexpensive. They can be easy to implement and require little or no maintenance. EPA also believes that in some instances more resource intensive treatment type BMPs are appropriate to reduce pollutant levels such as suspended solids and oil/grease in storm water discharges associated with asphalt facilities or lubricant manufacturers. Though these BMPs are somewhat more resource intensive, they can be effective in reducing pollutant loads and may be necessary depending on the type of discharge, types and concentrations of contaminants, and volume of flow.

Table D–4 lists some BMPs which may be effective in limiting the amount of pollutants in storm water discharges from asphalt facilities and lubricant manufacturers. Based on part 1 information, several of the BMPs suggested are already in place at many of the facilities. Part 1 submittals indicate that diking, curbing, or other types of diversion occur at approximately 57 percent of the facilities. Some form of covering is used as a BMP at 25 percent of the facilities, and detention ponds are in place at 19 percent of the facilities. In addition, 38 percent of the facilities submitting part 1 information reported they had a Spill Prevention Control and Countermeasure Plan in place.

TABLE D–4.—MEASURES TO CONTROL POLLUTANTS IN STORM WATER DISCHARGES FROM ASPHALT FACILITIES AND LUBRICANT MANUFACTURERS

Activity	Suggested BMPs
Material Storage, Handling, and Processing	Cover material storage and handling areas with an awning, tarp or roof. Practice good stockpiling practices such as: storing materials on concrete or asphalt pads; surrounding stockpiles with diversion dikes or curbs; and revegetating areas used for stockpiling in order to slow runoff. Use curbing, diking or channelization around material storage, handling and processing areas to divert runon around areas where it can come into contact with material stored or spilled on the ground. Utilize secondary containment measures such as dikes or berms around asphalt storage tanks and fuel oil tanks.

TABLE D–4.—MEASURES TO CONTROL POLLUTANTS IN STORM WATER DISCHARGES FROM ASPHALT FACILITIES AND LUBRICANT MANUFACTURERS—Continued

Activity	Suggested BMPs
	Use dust collection systems (i.e., baghouses) to collect airborne particles generated as a result of material handling operations or aggregate drying. Properly dispose of waste materials from dust collection systems and other operations. Remove spilled material and dust from paved portions of the facility by shoveling and sweeping on a regular basis. Utilize catch basins to collect potentially contaminated storm water. Implement spill plans to prevent contact of runoff with spills of significant materials. Clean material handling equipment and vehicles to remove accumulated dust and residue. Use a detention pond or sedimentation basin to reduce suspended solids. Use an oil/water separator to reduce the discharge of oil/grease.

4. Storm Water Pollution Prevention Plan Requirements

EPA believes that pollution prevention is the most effective approach for controlling contaminated storm water discharges from asphalt facilities and lubricant manufacturers. Pollution prevention plans allow the operator of a facility to select BMPs based on site-specific considerations such as: facility size, climate, geographic location, hydrogeology, the environmental setting of each facility, and volume and type of discharge generated. This flexibility is necessary because each facility will be unique in that the source, type and volume of contaminated surface water discharges will differ from site to site.

All facilities subject to this section must prepare and implement a storm water pollution prevention plan. The establishment of a pollution prevention plan requirement reflects EPA's decision to allow operators of asphalt facilities and lubricant manufacturers to utilize BMPs as the BAT/BCT level of control for the storm water discharges covered by this section. The requirements included in pollution prevention plans provide a flexible framework for the development and implementation of site specific controls to minimize pollutants in storm water discharges. This is consistent with the approach in EPA's storm water baseline general permits finalized on September 9, 1992 (57 FR 41236).

There are two major objectives to a pollution prevention plan: (1) To identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from a facility; and (2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity from a facility. Specific requirements for a pollution prevention plan for asphalt facilities and lubricant manufacturers are described below. These requirements must be implemented in addition to the baseline pollution prevention plan provisions discussed previously.

a. Description of Potential Pollution Sources. There are no additional requirements beyond those described in Part VI.C.2. of this fact sheet.

b. Measures and Controls. There are no additional requirements beyond those described in Part VI.C.3. of this fact sheet.

c. Comprehensive Site Compliance Evaluation. The storm water pollution prevention plan must describe the scope and content of comprehensive site evaluations that qualified personnel will conduct to: (1) Confirm the accuracy of the description of potential pollution sources contained in the plan; (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of today's permit.

Comprehensive site compliance evaluations shall be conducted at least once a year for asphalt facilities and lubricant manufacturers. The individual or individuals who will conduct the evaluations must be identified in the plan and should be members of the pollution prevention team. Inspection reports must be retained for at least 3 years after the date of the evaluation.

Comprehensive site compliance evaluations shall be conducted at least once a year at portable plant locations. Such evaluations shall be conducted at least once at portable plant locations that are not in operation a full year.

Based on the results of each evaluation, the description of potential pollution sources, and measures and controls, the plan must be revised as appropriate within 2 weeks after each evaluation. Changes in the measures and controls must be implemented on the site in a timely manner, but no later than 12 weeks after completion of the evaluation.

For portable plants, the plan must be revised as appropriate as soon as possible, but no later than 2 weeks after each evaluation. Two weeks is adequate time for portable plants to modify their plans due to the simpler and smaller nature of these operations in comparison to permanent facilities.

5. Numeric Effluent Limitations

In addition to the numeric effluent limitations established under Part V.B, part XI.D.4 of today's permit includes numeric effluent limitations for storm water discharges resulting from the production of asphalt paving and roofing emulsions. Discharges from areas where production of asphalt paving and roofing emulsions occurs may not exceed a TSS concentration of 23.0 mg/L of runoff for any one day, nor shall the average of daily values for 30 consecutive days exceed a TSS concentration of 15.0 mg/L of runoff. Oil and grease concentrations in storm water discharges from these areas may not exceed 15.0 mg/L of runoff for any 1 day, nor should the average daily values for 30 consecutive days exceed an oil and grease concentration of 10.0 mg/L of runoff. The pH of these discharges must be within the range of 6.0 to 9.0. Facilities with such discharges must be in compliance with these effluent limitations upon commencement of coverage and for the entire term of the permit. These effluent limitations are in accordance with 40 CFR 443.12 and 40 CFR 443.13, Effluent Guidelines and Standards, Paving and Roofing Materials Point Source Category, Asphalt Emulsion Subcategory. These limitations represent the degree of effluent reduction attainable by the application of best practicable control technology and best available technology.

6. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. Under the revised methodology for determining pollutants of concern for the various industrial sectors, only asphalt paving and roofing

materials manufacturers are required to perform analytical monitoring of storm water discharges. As discussed previously, the median composite sample concentration for TSS of 145 mg/L is higher than the benchmark value for TSS of 100 mg/L for the asphalt paving and roofing materials subsector, thus triggering monitoring for TSS. The monitoring requirements are presented in Table D–5 for asphalt paving and roofing materials manufacturers.

At a minimum, storm water discharges from asphalt paving and roofing materials manufacturers must be monitored quarterly during the second year of permit coverage. Samples must be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Table D–5. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE D–5.—ASPHALT PAVING AND ROOFING MATERIALS MANUFACTURERS MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Suspended Solids	100 mg/L.

If the average concentration for a parameter is less than or equal to the cut-off concentration, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. The schedule for monitoring is presented in Table D–6.

TABLE D–6.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table B–7, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table B–7, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table B–7. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will be used to reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

(1) Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(2) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(3) Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative certification described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has

determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring described under paragraph *b.* below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity, and that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in lieu of monitoring reports required under paragraph *b.* (below). If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent guidelines. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

b. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one Discharge Monitoring Report Form must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum requirements an additional Discharge Monitoring Report Form must be filed for each analysis. The permittee must include a measurement or estimate of the total precipitation, volume of runoff, and peak flow rate of runoff for each storm event sampled.

EPA also believes that between quarterly visual examinations and site compliance evaluations potential sources of contaminants can be recognized, addressed, and then controlled with BMPs. In determining the monitoring requirements, EPA considered the nature of the industrial activities and significant materials exposed at these sites, and performed a review of data provided in Part 2 group applications.

c. Quarterly Visual Examination. Quarterly visual examinations of a storm water discharge from each outfall are required at asphalt facilities and lubricant manufacturers. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, turbidity, floating solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each designated period during daylight hours unless there is insufficient rainfall or snow-melt to runoff. Where practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Examinations shall be conducted in each of the following periods for the purposes of inspecting storm water quality associated with storm water runoff and snow melt: January through March; April through June; July through September; October through December. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 60 minutes) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual inspection will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

d. Compliance Monitoring Requirements. Today's permit requires permittees with storm water discharges associated with the production of asphalt paving or roofing emulsions to monitor for the presence of total suspended solids, oil and grease, and for pH at least annually. These monitoring requirements are necessary to evaluate compliance with the numeric effluent limitation imposed on these discharges. Monitoring shall be performed upon a minimum of one grab sample. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. Monitoring results shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the last day of the month following collection of the sample. For each outfall, one Discharge Monitoring Report form must be submitted per storm event sampled. Facilities which discharge through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must also submit signed copies of discharge monitoring reports to the operator of the

municipal separate storm sewer system. Alternative Certification provisions described in Section XI.D.5 do not apply to facilities subject to compliance monitoring requirements in this section. Compliance monitoring is required at least annually for discharges subject to effluent limitations. Therefore, EPA cannot permit a facility to waive compliance monitoring.

Asphalt emulsion manufacturing facilities are not required to collect and analyze separate samples for the presence of TSS to satisfy the Compliance Monitoring requirements of Section XI.D.5.d. during a year in which the facilities have collected and analyzed samples for TSS in accordance with the Analytical Monitoring requirements of Section XI.D.5.a. The results of all TSS Analytical Monitoring analyses may also be reported as Compliance Monitoring results in accordance with Section XI.D.5.d.(3) where the monitoring methodologies are consistent.

E. Storm Water Discharges Associated With Industrial Activity From Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing Facilities

1. Discharges Covered Under This Section

On November 16, 1990 (55 FR 47990), EPA promulgated the regulatory definition of "storm water discharges associated with industrial activity." This definition included point source discharges of storm water from eleven categories of facilities. Category (ii) identifies facilities classified as Standard Industrial Classification (SIC) code 32 as having storm water discharges associated with an industrial activity.

The following section describes the industrial activities and permit conditions for storm water discharges associated with industrial activity classified under Major SIC Group 32. The discussion focuses on the industries covered by today's permit. There are industries in Major SIC Group 32 beyond those discussed below; however, representatives of these industries did not choose to participate in the group application process on which this section is based. Therefore, they are not eligible for coverage under this permit.

This section only covers storm water discharges associated with industrial activities from facilities engaged in gypsum, cement, clay, glass, and concrete products manufacturing.[39] Facilities subject to the requirements of this section include the following types of manufacturing operations: flat glass, (SIC code 3211); glass containers, (SIC code 3221); pressed and blown glass, not elsewhere classified, (SIC code 3229); hydraulic cement, (SIC code 3241); brick and structural clay tile, (SIC code 3251); ceramic wall and floor tile, (SIC code 3253); clay refractories, (SIC code 3255); structural clay products not elsewhere classified (SIC code 3259); vitreous table and kitchen articles (SIC code 3262); fine earthenware table and kitchen articles (SIC code 3263); porcelain electrical supplies, (SIC code 3264); pottery products, (SIC code 3269); concrete block and brick, (SIC code 3271); concrete products, except block and brick (SIC code 3272); ready-mix concrete, (SIC code 3273); gypsum products, (SIC code 3275); minerals and earths, ground or otherwise treated, (SIC code 3295); and nonclay refractories, (SIC code 3297).

Wash waters from vehicle and equipment cleaning areas are process wastewaters. This section does not cover any storm water that combines with process wastewater, unless the process wastewater is in compliance with another NPDES permit. This section does not cover any discharge subject to an existing or expired NPDES general permit. The section may cover runoff which derives from the storage of materials used in or derived from the cement manufacturing process[40] unless storm water discharges are already subject to an existing or expired NPDES permit.

Discharges from several industrial activities in Major SIC Group 32 are not covered by this section. These activities are: lime manufacturing (SIC 3274); cut stone and stone products (SIC 3281); abrasive products (SIC 3291); asbestos products (SIC 3292); and mineral wool and mineral wool insulation products (SIC 3297).

These types of facilities are not covered by this (or any other) section of today's permit, because these types of industrial activities were not represented in the group application process nor are they believed to be sufficiently similar to industrial activities that were included in the group application process. Because these facilities were not included in the group application process there is no additional information with which to develop industry-specific permit language.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

a. Industry Profile. Part XI.E. of today's permit has been developed for storm water discharges from glass, clay, cement, concrete, and gypsum products manufacturers. As stated above, these facilities are regulated under category (ii) of the definition of storm water discharges associated with industrial activity. Part XI.E. of today's permit addresses the industry-specific permit requirements for storm water discharges from these industries.

There are a variety of industrial processes that occur at manufacturing facilities covered under this section. The following descriptions summarize basic operations occurring at each type of industry.

(1) Glass Product Manufacturing. Facilities primarily engaged in the manufacturing of glass and glassware, or manufacturing glass products from purchased glass are classified under standard industrial groups 321–323. Facilities covered by these SIC codes share several similar steps in the manufacturing process. Such processes include the storage of raw materials, weighing the materials, charging, melting and forming. Although the forming processes vary greatly, the steps with a potential exposure to storm water are somewhat homogeneous.

The first step in the glass manufacturing process is batch preparation. This involves the selection and storage of the raw materials that will be used in the process. Such materials may include silica sand, limestones, feldspars, borates, soda ash, boric acid, potash and barium carbonate. Once the desired characteristics of the final product are

[39] Please note that storm water discharges associated with industrial activity from facilities identified as SIC code 323 (glass products made of purchased glass) only occur where material handling equipment or activities, raw materials intermediate products, final products, waste materials, by-products or industrial machinery are exposed to storm water. SIC code 323 facilities are only required to submit storm water permit applications when activities or materials are exposed to storm water.

[40] These discharges are subject to effluent limitation guidelines under 40 CFR 412.11.

assessed, the composition of the batch is determined and the raw materials are mixed together. The batch is then conveyed to the furnaces.

Furnaces are used to melt the batch to produce glass. Most of the furnaces in the glass manufacturing industry are fueled by natural gas or oil. The batch is placed in the furnace and allowed to melt. Once the glass has been melted and conditioned it is channeled to a forming machine.

Forming operations consist of up to four major steps, the first of which involves a further conditioning process to prepare the glass for primary forming. Primary forming, which may include drawing, blowing, pressing, or casting, is the second step in the forming operation. This operation is usually followed by an annealing step. Annealing is the process of subjecting the glass to heat and slow cooling in order to toughen the product. The final process in the forming operation may include one or more secondary operations. Operations such as grinding and polishing, laminating, sealing and coating of glass are common secondary operations. Materials used for secondary operations vary, examples are the resins used to laminate glass to produce safety glass products, such as car windows.

(2) Cement Manufacturing. Facilities primarily engaged in manufacturing hydraulic cement (e.g., portland, natural, masonry, and pozzolana cements) are identified as SIC code 3241. The manufacturing process is generally the same for all facilities classified as SIC 3241. The three basic steps in cement manufacturing are: (1) Proportioning, grinding, and blending raw materials; (2) heating raw materials to produce a hard, stony substance known as "clinker"; and (3) combining the clinker with other materials and grinding the mixture into a fine powdery form.

The first step in cement manufacturing is proportioning, grinding and blending raw materials. The primary raw material is lime. Lime is typically obtained from limestone, cement rock, oyster shell marl, and chalk. Other ingredients in cement manufacturing may include silica, alumina, and iron. The blending and grinding of these raw materials is achieved through either "wet" processing or "dry" processing. Wet processing operations use water when grinding and blending raw materials, and dry processing operations grind and blend raw materials in a dried state. Until they are fed into kilns for clinker production, materials ground from wet processing are stored in slurry tanks, while dry processing materials are stored in silos.

Kilns typically are coal, gas, or oil fired. In the kiln raw materials are commonly heated to a temperature of 1600 degrees Celsius (2900 degrees Fahrenheit). At these extreme temperatures, clinker is formed as raw materials begin to fuse and harden. Air is then used to cool clinker emerging from the kiln.

The final stage of the process involves adding small amounts of gypsum or stone (used to control setting times) to the clinker and grinding the mixture into a fine powdery form. The powdery product is then cooled before storage, bagging, and shipping.

There are facilities classified as SIC 3241 which only perform the final grinding step in the cement manufacturing process. These facilities do not have kilns to heat raw materials, and so obtain clinker from manufacturing plants.

(3) Clay Product Manufacturing. Facilities primarily engaged in manufacturing clay products, including brick, tile (clay or ceramic), or pottery products are classified as standard industrial groups 325 and 326. Although clay product manufacturing facilities produce a wide variety of final products, there are several similar processing steps shared by most facilities in this industry: (1) Storage and preparation of raw materials; (2) forming; (3) drying; (4) firing; and (5) cooling.

Manufacturers classified as standard industrial groups 325 and 326 typically use clay (common, silt, kaolin and/or phyllite) and shale (mud, red, blue and/or common) as their primary raw materials. However, some industries supplement these materials with slag (cinders), cement and lime. Raw materials are generally stored outside.

Raw materials are crushed and ground prior to manufacturing. Stones are removed, and particles of raw materials are screened to ensure they are the correct size. Water is then added to raw materials in mixing chambers and "mud" is formed. The mud is molded into the desired product during the forming stage. Depending on the final product, one of several different methods will be used when forming mud into the desired shape. The most common methods use pressure or hydraulic machines to shape products.

Following the forming process, products are left to dry. Drying is necessary to reduce the moisture content prior to firing. A common method for reducing moisture content is air drying clay products in a controlled environment (e.g., a drying chamber). When the drying process is complete, the clay is ready for firing in kilns.

There are two basic types of kilns: the periodic kiln and the tunnel kiln. With a periodic kiln, products are fired for a specified period of time and then promptly removed. With a tunnel kiln, products pass through the kiln on conveyor belts, and by the time the clay reaches the end of the kiln, the firing process is complete. The primary source of energy for most firing kilns is natural gas. Natural gas is typically supplemented with coal, sawdust, or oil. Fired products may then be glazed with salt or other materials for special applications.

(4) Concrete Products. Facilities primarily engaged in manufacturing concrete products, including ready-mixed concrete, are identified as SIC group 327. Although concrete product facilities in SIC group 327 produce a variety of final products, they all have common raw materials and activities.

Concrete products manufacturers combine cement, aggregate, and water to form concrete. Aggregate generally consists of: sand, gravel, crushed stone, cinder, shale, slag, clay, slate, pumice, vermiculite, scoria, perlite, diatomite, barite, limonite, magnetite, or ilmenite. Admixtures including fly ash, calcium chloride, triethanolamine, calcium salt, lignosulfunic acid, vinosol, saponin, keratin, sulfonated hydrocarbon, fatty acid glyceride, vinyl acetate, and styrene copolymer of vinyl acetate may be added to obtain desired characteristics, such as slower or more rapid curing times.

Typically, aggregate is received in bulk quantities by rail, truck, or barge. It is stored outside, and kept moist, until it is conveyed to distribution bins. The first stage in the manufacturing process is proportioning cement, aggregate, admixtures and water, and then transporting the product to a rotary drum, or pan mixer.

To form concrete block and brick, the mixture is then fed into an automatic block molding machine that rams, presses, or vibrates the mixture into its final form. The final product is then stacked on iron framework cars where it cures for 4 hours. Decorative blocks may be produced by adding colors to the mix, or splitting the surface into desired shapes.

Precast concrete products, may contain steel structural members for increased strength. These products include transformer pads, meter boxes, pilings, utility vaults, steps, cattle guards, and balconies. After being mixed in a central mixer, concrete is poured into forms or molded in the same manner as concrete block and

brick. Forms are often coated with a release oil to aid stripping. The concrete "sets" or cures in the forms for a number of hours (depending upon the type of admixtures used). When the concrete has cured, the forms are removed. Forms are washed for reuse, and the concrete products are stored until they can be shipped.

In addition to the permanent concrete product facilities, there are a number of portable ready mix concrete operations which operate on a temporary basis. The portable plants are typically dedicated to providing ready mix concrete to one construction project. Portable plants have the same significant materials and industrial activities as permanent facilities. Therefore, portable concrete plants are eligible for coverage under Part XI.E. of today's permit.

(5) Gypsum Products Manufacturing. Facilities primarily engaged in manufacturing plaster, wallboard, and other products composed wholly or partially of gypsum (except plaster of paris and papier-mâché) are classified as SIC code 3275.

The gypsum product manufacturing process begins with calcining the gypsum: finely ground raw gypsum (referred to as "land plaster") is fed into imp mills or calcining kettles where extreme heat removes 75 percent of the gypsum's molecular moisture. The result is a dry powder called stucco, which is cooled and conveyed to storage bins.

To produce wallboard, stucco is fed into pin mixers where it is blended with water and other additives to produce a slurry. The slurry is then applied to continuous sheets of paper to form wallboard. In addition to producing wallboard, some facilities may combine stucco with additives (excluding water) to produce plaster. Plaster is then bagged or bulked and shipped off site for purchase.

EPA considers calcining the first step in gypsum product manufacturing. Many facilities with a primary SIC code of 3275 may have mining/quarry and crushing activities at their sites. Please note, however, that because these activities are not considered part of the manufacturing operations, storm water discharges from mining/quarry and crushing are not covered under Part XI.E. of the today's permit. Discharges associated with gypsum mining activities are addressed under Part XI.J. of today's permit and VIII.J. of the fact sheet.

2. Pollutants in Storm Water Discharges Associated With Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing

Impacts caused by storm water discharges from gypsum, concrete, clay, glass, and concrete manufacturing operations will vary. Several factors influence to what extent industrial activities and significant materials from these types of facilities and processing operations can affect water quality. Such factors include: geographic location; hydrogeology; the type of industrial activity occurring outside (e.g., material storage, loading and unloading, or vehicle maintenance); the type of material stored outside (e.g., aggregate, limestone, clay, concrete, etc.); the size of the operation; and type, duration, and intensity of precipitation events. These and other factors will interact to influence the quantity and quality of storm water runoff. For example, air emissions (i.e., settled dust) may be a significant source of pollutants at some facilities, while material storage is a primary source at others. In addition, sources of pollutants other than storm water, such as illicit connections,[41] spills, and other improperly dumped materials, may increase the pollutant loadings discharged into waters of the United States.

Table E–1, Potential Sources of Pollutants in Storm Water Discharges Associated with Glass, Clay, Cement, Concrete, and Gypsum Manufacturing, summarizes the industrial activities indicated in the part 1 group applications for facilities covered under this section of today's permit. Table E–1 also lists the likely sources of contamination of storm water that are associated with this activity. The third column of the table lists the pollutants or the indicator parameters for the pollutants which may be present in the storm water discharges associated with the industrial activity. The table is limited to the industrial activities which are commonly exposed to storm water. Industrial activities which predominantly occur indoors, such as glass forming, are not listed in Table E–1.

TABLE E–1.—POTENTIAL SOURCES OF POLLUTANTS IN STORM WATER DISCHARGES ASSOCIATED WITH GLASS, CLAY, CEMENT, CONCRETE, AND GYPSUM MANUFACTURING

Activity	Pollutant source	Pollutants/indicators
Material Storage at Glass Manufacturing Facilities.	Exposed or spilled: sand, soda ash, limestone, cullet, and petroleum products.	TSS, COD, oil and grease, pH, lead.
Materials Storage at Clay Products Manufacturing Facilities.	Exposed: ceramic parts, pryophyllite ore, shale, ball clay, fire clay, kaolin, tile, silica, graphite, coke, coal, brick, sawdust, waste oil, and used solvents.	TSS, pH, COD, oil and grease, aluminum, lead, zinc.
Material Handling at Clay Products Manufacturing Facilities Including: Loading/Unloading.	Exposed: ceramic parts, liquid chemicals, ammonia, waste oil, used solvents, pryophyllite ore, shale, ball clay, fire clay, kaolin, tile, alumina, silica, graphite, coke, coal, olivine, magnesite magnesium carbonate, brick, sawdust, and wooden pallets.	TSS, pH, oil and grease, TKN, COD, BOD, aluminum, lead, zinc.
Forming/Drying Clay Products	Clay, shale, slag, cement, and lime	TSS, pH.
Material Storage at Cement Manufacturing Facilities.	Exposed: kiln dust, limestone, shale, coal, clinker, gypsum, clay, slag, and sand.	TSS, pH, COD, potassium, sulfate.
Material Handling at Cement Manufacturing Facilities.	Exposed: kiln dust, limestone, shale, coal, clinker, gypsum, clay, slag, anhydrite, and sand.	TSS, pH, COD, potassium, sulfate, oil and grease.
Crushing/Grinding at Cement Manufacturing Facilities.	Settled dust and ground limestone, cement, oyster shell, chalk, and clinker.	TSS, pH.
Material Storage at Concrete Product Manufacturing Facilities.	Exposed: aggregate (sand and gravel), concrete, shale, clay, limestone, slate, slag, and pumice.	TSS, COD, pH.

[41] Illicit connections are contributions of unpermitted non-storm water discharges to storm sewers from any of a number of sources including sanitary sewers, industrial facilities, commercial establishments, or residential dwellings.

TABLE E–1.—POTENTIAL SOURCES OF POLLUTANTS IN STORM WATER DISCHARGES ASSOCIATED WITH GLASS, CLAY, CEMENT, CONCRETE, AND GYPSUM MANUFACTURING—Continued

Activity	Pollutant source	Pollutants/indicators
Material Handling at Concrete Product Manufacturing Facilities.	Exposed: aggregate, concrete, shale, clay, slate, slag, pumice, and limestone as well as spills or leaks of cement, fly ash, admixtures and baghouse settled dust.	TSS, COD, pH, lead, iron, zinc.
Mixing Concrete	Spilled: aggregate, cement, and admixture	TSS, pH, COD, lead, iron zinc.
Casting/Forming Concrete Products	Concrete, aggregate, form release agents, reinforcing steel, latex sealants, and bitumastic coatings.	TSS, pH, oil and grease, COD, BOD.
Vehicle and Equipment Washing at Concrete Product Manufacturing Facilities.	Residual: aggregate, concrete, admixture, oil and grease	TSS, pH, COD, oil and grease.
Crushing/Grinding of Gypsum Rock	Exposed or spilled: gypsum rock and dust	TSS, pH.
Material Storage at Gypsum Manufacturing Facilities.	Exposed: gypsum rock, synthetic gypsum, recycled gypsum and wallboard, stucco, perlite ore/expanded perlite, and coal.	TSS, COD, pH.
Material Handling at Gypsum Manufacturing Facilities (including bagging and packaging).	Exposed or spilled: gypsum rock, synthetic gypsum, recycled gypsum and wallboard, stucco, perlite ore/expanded perlite, and coal.	TSS, pH, COD.
Equipment/Vehicle Maintenance	Gasoline, diesel, fuel, and fuel oil	Oil and grease, BOD, COD.
	Parts cleaning	COD, BOD, oil and grease, pH.
	Waste disposal of solvents, oily rags, oil and gas filters, batteries, coolants, and degreasers.	Oil and grease, lead, iron, zinc, aluminum, COD, pH.
	Fluid replacement including lubricating fluids, hydraulic fluid, oil, transmission fluid, radiator fluids, solvents, and grease.	Oil and grease, arsenic, lead, cadmium, chromium, COD, and benzene.

The activities common to the facilities covered under Part XI.E. of today's permit are material storage and material handling operations. All facilities covered under this section handle and store nonmetallic minerals. These minerals are typically loaded and unloaded in areas of the site that are exposed to storm water. The minerals are often stored outdoors until they are utilized in the industrial processes. Handling and storing these minerals outdoors may result in the discharge of a portion of the materials in storm water runoff. The presence of the nonmetallic minerals in the storm water is measured by the total suspended solids (TSS) test. Many of the minerals processed by the facilities are calcareous, such as limestone or chalk. The presence of these materials can elevate the pH of the storm water discharged from the site.

Vehicle fueling, repair, maintenance and cleaning occurs at many facilities covered under this section. Facilities will fuel, repair and maintain vehicles used to transport significant materials to, from or around the facility. Facilities may also perform maintenance on process or material handling equipment such as mixers or conveyors. The fueling, maintenance and repair activities may result in leaks or spills of oil from the vehicles and equipment. The spilled material may be carried off of the site in the storm water discharge.

Ready mix concrete facilities will frequently wash out the mixers of the trucks after concrete has been delivered to a job site. The wash out water contains unhardened concrete. Facilities will often wash down the exterior of their vehicles. The wash off water may contain cement, sand, gravel, clay, or other materials. The wash water from the vehicles should be either treated and discharged from the site through a sanitary sewer or NPDES permitted discharge or collected in a recycle pond where the heavy solids settle out and the water is recycled back to be used in the plant. Pollutants from the wash water may settle out on the site before it is treated or recycled. These pollutants may come into contact with storm water and be discharged from the site.

Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the glass, clay, cement concrete and gypsum product industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: manufacturers of flat glass, glass and glassware, pressed or blown glass products made of purchased glass; hydraulic cement manufacturers; manufacturers of clay products, pottery and related products (including nonclay refractories); and concrete, gypsum and plaster product manufacturers (including ground minerals and earth). Tables E–2, E–3, E–4 and E–5 below include data for the eight pollutants that all facilities were required to monitor for under Form 2F. The tables also list those parameters that EPA has determined merit further monitoring.

TABLE E–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY FLAT GLASS, GLASS AND GLASSWARE, PRESSED OR BLOWN GLASS PRODUCTS MADE OF PURCHASED GLASS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[1] (MG/L)

Pollutant / Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[2]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	8	9	17	17	5.4	7.76	0.0	0.0	45.0	16.0	5.0	7.0	27.8	17.56	49.5	25.01
COD	8	9	17	17	84.6	95.81	14.0	7.0	317.0	512.0	56.0	51.0	245.3	307.6	440.7	505.3
Nitrate + Nitrite Nitrogen	9	8	17	17	0.99	0.67	0.00	0.0	7.21	4.79	0.56	0.55	2.76	3.01	5.25	5.20
Total Kjeldahl Nitrogen	9	9	17	17	2.01	1.73	0.87	0.0	4.92	4.47	1.50	1.80	4.42	4.44	6.58	6.82
Oil & Grease	9	N/A	18	N/A	2.7	N/A	0.0	N/A	89.0	N/A	0.0	N/A	15.4	N/A	49.5	N/A
pH	9	N/A	18	N/A	N/A	N/A	6.8	N/A	9.8	N/A	7.9	N/A	10.5	N/A	11.8	N/A
Total Phosphorus	9	9	17	17	0.39	0.31	0.10	0.0	1.30	0.80	0.33	0.23	0.91	0.71	1.43	1.06

TABLE E–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY FLAT GLASS, GLASS AND GLASSWARE, PRESSED OR BLOWN GLASS PRODUCTS MADE OF PURCHASED GLASS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (MG/L)—Continued

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
Total Suspended Solids	9	9	17	17	60	110.6	6	0.0	230	800	40	19.0	215	490	450	1314

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE E–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY HYDRAULIC CEMENT MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (MG/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	4	4	7	7	7.8	5.3	0.0	0.0	40.2	27.0	0.0	0.0	42.5	27.99	95.2	60.6
COD	4	4	7	7	277.3	55.2	0.0	15.0	1411.0	136.0	36.0	40.0	1360.7	173.0	4186.2	225.1
Nitrate + Nitrite Nitrogen	4	4	7	7	0.78	0.40	0.23	0.10	1.77	17.5	0.66	0.67	1.82	15.44	2.75	69.7
Total Kjeldahl Nitrogen	4	4	7	7	1.85	1.16	0.00	0.0	7.15	2.81	0.56	1.06	12.77	5.20	41.07	11.15
Oil & Grease	4	N/A	7	N/A	1.5	N/A	0.0	N/A	5.0	N/A	0.0	N/A	6.8	N/A	22.8	N/A
pH	4	N/A	8	N/A	N/A	N/A	7.2	N/A	11.2	N/A	8.1	N/A	12.3	N/A	14.2	N/A
Total Phosphorus	4	4	7	7	1.00	0.18	0.00	0.01	3.88	0.53	0.16	0.05	16.43	1.14	143.66	3.72
Total Suspended Solids	4	4	7	7	2528	300.6	10	6.0	17065	1368	82	57	7498	1709	40325	8791

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE E–4.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY STRUCTURAL CLAY PRODUCTS, POTTERY, AND RELATED PRODUCTS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (MG/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	18	18	23	22	10.4	10.7	0.0	0.0	47.0	42.0	9.3	9.1	30.2	32.3	50.2	54.32
COD	18	18	23	22	91.1	77.9	0.0	0.0	520.0	420.0	39.0	37.5	324.3	273.7	703.1	582.4
Nitrate + Nitrite Nitrogen	16	16	21	20	0.76	0.76	0.00	0.00	1.80	2.30	0.40	0.56	2.53	2.20	4.85	3.75
Total Kjeldahl Nitrogen	16	16	23	22	1.93	1.40	0.00	0.00	13.00	6.70	1.10	0.82	6.02	4.04	10.58	9.06
Oil & Grease	18	N/A	23	N/A	1.46	N/A	0.00	N/A	9.0	N/A	0.0	N/A	7.9	N/A	17.6	N/A
pH	18	N/A	23	N/A	N/A	N/A	5.0	N/A	9.0	N/A	7.0	N/A	9.2	N/A	10.1	N/A
Total Phosphorus	18	18	21	20	0.31	0.29	0.00	0.0	1.70	1.42	0.12	0.14	1.22	1.14	2.75	2.43
Total Suspended Solids	18	18	23	22	177	203	4	0.0	1300	1440	73	50	747	1065	2055	3745
Aluminum	8	8	8	8	3.96	5.48	0.3	0	14	42	2.7	1.1	16.51	24.16	37.73	74.09

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE E–5.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY CONCRETE, GYPSUM AND PLASTER PRODUCTS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (MG/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	155	153	211	207	14.0	5.84	0.0	0.0	1300.0	74.0	4.0	3.4	33.5	19.4	71.0	35.9
COD	155	154	213	208	81.6	82.4	0.0	0.0	700.0	510.0	51.0	43.5	251.0	190.8	472.7	350.6
Nitrate + Nitrite Nitrogen	147	145	203	196	1.27	0.85	0.00	0.0	46.00	22.20	0.57	0.52	4.16	2.91	9.45	6.05
Total Kjeldahl Nitrogen	147	144	204	195	2.45	1.30	0.00	0.0	101.00	17.30	1.20	1.00	8.31	3.91	12.08	5.87
Oil & Grease	157	N/A	214	N/A	4.6	N/A	0.0	N/A	150.0	N/A	1.4	N/A	15.5	N/A	34.5	N/A
pH	146	N/A	199	N/A	N/A	N/A	2.6	N/A	12.3	N/A	8.9	N/A	12.1	N/A	13.8	N/A
Total Phosphorus	155	153	213	207	1.00	0.74	0.00	0.00	16.00	10.70	0.30	0.25	3.54	3.60	9.51	8.51
Total Suspended Solids	154	154	211	208	1322	374.5	0	0.0	61000	3340	250	170	3872	1724	12482	4636
Iron	8	8	8	8	10.4	7.1	0.2	1	29	14	5.4	6.5	72.3	23.1	224.3	41.9

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

3. Options for Controlling Pollutants

There are a number of options for eliminating or minimizing the presence of pollutants in storm water discharges from glass, clay, cement or concrete product manufacturing facilities. In evaluating the options for controlling pollutants in the storm water discharges associated with the industrial activities

covered under this section, EPA must comply with the requirements of Section 402(p)(3) of the Clean Water Act which require the compliance with the Best Available Technology (BAT) and Best Conventional Technology (BCT).

EPA believes that it is infeasible to develop effluent limitations for storm water discharges associated with glass, clay, cement, or concrete manufacturing beyond those already established in the Effluent Limitation Guidelines. There are significant variations from site to site on the industrial activity and significant materials exposed to storm water. The data collected to date is inadequate to characterize these variations. Therefore, EPA believes that the requirement for a facility operator to develop a pollution prevention plan which considers the specific conditions at his or her site satisfies the BAT/BCT requirements. The pollution prevention plan will call for the implementation of best management practices that minimize contact between the storm water and pollutant sources or which remove pollutants from the storm water before it is discharged from the site. Table E–6 lists the pollution prevention measures or best management practices which are most applicable to facilities classified in major SIC Group 32. The table is organized by the specific industrial activities which may introduce pollutants to storm water. The right column lists corresponding BMPs which may be considered.

TABLE E–6.—MEASURES TO CONTROL POLLUTANTS IN STORM WATER DISCHARGES FROM GLASS, CLAY, CEMENT, CONCRETE, AND GYPSUM FACILITIES[1]

Activity	Associated BMPs
Storing dry bulk materials including: sand, gravel, clay, cement, fly ash, kiln dust, and gypsum.	Store materials in an enclosed silo or building.
	Cover material storage piles with a tarp or awning.
	Divert runon around storage areas using curbs, dikes, diversion swales or positive drainage away from the storage piles.
	Install sediment basins, silt fence, vegetated filter strips, or other sediment removal measures downstream/downslope.
	Only store washed sand and gravel outdoors.
Handling bulk materials including: sand, gravel, clay, cement, fly ash, kiln dust, and gypsum.	Use dust collection systems (e.g., bag houses) to collect airborne particles generated as a result of handling operations.
	Remove spilled material and settled dust from paved portions of the facility by shoveling and sweeping on a regular basis.
	Periodically clean material handling equipment and vehicles to remove accumulated dust and residue.
	Install sediment basins, silt fence, vegetated filter strips, or other sediment removal measures downstream/downslope.
Mixing operations	Use dust collection systems (e.g., bag houses) to collect airborne particles generated as a result of mixing operations.
	Remove spilled material and settled dust from the mixing area by shoveling and sweeping on a regular basis.
	Clean exposed mixing equipment after mixing operations are complete.
	Install sediment basins, silt fence, vegetated filter strips, or other sediment removal measures downstream/downslope.
Vehicle and equipment washing	Designate vehicle and equipment wash areas that drain to recycle ponds or process wastewater treatment systems.
	Train employees on proper procedure for washing vehicles and equipment including a discussion of the appropriate location for vehicle washing.
	Conduct vehicle washing operation indoors or in a covered area.
	Clean wash water residue from portions of the site that drain to storm water discharges.
Dust Collection	Maintain dust collection system and baghouse. Properly remove and recycle or dispose of collected dust to minimize exposure of collected dust to.
Pouring and curing pre-cast concrete products	Pour and cure precast products in a covered area.
	Clean forms before storing outdoors.

[1] From "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices," (EPA 832–R–92–006) EPA, 1992, and proposed pollution prevention plans submitted by group applicants.

In addition to the activity-specific best management practices listed in Table E–6 above, there are structural practices that may be effective in reducing the pollutants found in the storm water discharges from facilities in Major SIC Group 32. This section does not specifically require that these structural measures be installed; however, the permittee must consider measures such as these at the facility. The structural measures include: vegetative filter strips, grassed swales, detention ponds, retention ponds or recycle ponds. These structural measures remove pollutants from the storm water which is carrying them off site. The measures listed above are effective in removing the heavy suspended solids which are common in the storm water discharges from clay, cement, concrete, and gypsum facilities.

Vegetated filter strips are gently sloped areas covered with either natural or planted vegetation. Vegetated filter strips remove pollutants from storm water by a filtering action. Vegetated filter strips can be located along the down slope perimeter of the industrial activity but not in areas of concentrated flow. Grassed swales are similar to vegetated filter strips. Within Major SIC Group 32, four percent of the designated sampling facilities indicated in their part 1 group applications that they had vegetated filter strips at their facilities. Grassed swales also remove pollutants from storm water flows by a filtering action. A grassed swale consists of a broad, grass lined ditch or swale with gradual slopes or check dams to reduce the velocity of flow. Unlike vegetated filter strips, grassed swales can remove pollutants from concentrated storm water runoff. Over 13 percent of the

designated samplers in Major SIC Group 32 indicated that there were grass lined swales at their facility.

Retention ponds and detention ponds are storm water management measures used to control the quantity and quality of storm water discharged from a site. A detention pond is a pond which temporarily detains the storm water discharged from an area. While detained in the pond, the heavy suspended particles in the storm water settle to the bottom of the pond. The result is a discharge from the detention pond with a TSS concentration which is lower than the influent concentration to the pond. Retention ponds retain the storm water within the pond with no discharge except for when extreme rainfall events occur. The water collected in the retention pond either evaporates, infiltrates, or is used as process water on site. Twenty seven percent of the designated samplers in Major SIC Group 32 indicated that there was a pond on their site which was used as a storm water management measure.

4. Special Conditions

a. Prohibition of Non-storm Water Discharges. The prohibited non-storm water discharges under this section are the same as those described under section V1.B.2 of this fact sheet with one exception. Part XI.E.2. of today's permit clarifies that the discharges of pavement washwaters from facilities covered under Part XI.E. of the permit are authorized under this section after the accumulated fly ash, cement, aggregate, kiln dust, clay, concrete or other dry significant materials handled at the facility have been removed from the pavement by sweeping, vacuuming, combination thereof or other equivalent measures, or the washwaters are conveyed into a BMP designed to remove solids prior to discharge, such as sediments basins, retention basins, and other equivalent measures. Where practicable pavement washwater shall be directed to process wastewater treatment or recycling systems. The clarification is made for this sector because EPA believes that a primary source of pollutants in the storm water discharges from facilities covered under this sector are spilled materials or settled dust from material handling processes. A primary focus of the pollution prevention plan requirements for these industries are good housekeeping measures, in particular, sweeping the paved portions of the site surrounding the material handling areas. Washing the paved areas without first sweeping or otherwise removing the accumulated solids may result in the discharge of these pollutants in the washwater unless the washwater is contained onsite or otherwise collected without discharge.

5. Storm Water Pollution Prevention Plan Requirements

a. Contents of the Plan.

(1) Description of Potential Pollutant Sources. All facilities covered by today's permit must prepare a description of the potential pollutant sources at the facility which complies with the common requirements described in Part VI.C.2. of this fact sheet. In addition to these requirements, facilities covered by this section must provide the following additional information in their pollution prevention plan.

Facilities covered under Part XI.E. of today's permit must identify on the site map the location of any: bag house or other air pollution control device; any sedimentation or process waste water recycling pond and the areas which drain to the pond. The location of the bag house or air pollution control equipment is required because this equipment stores the particulates or dust that are removed from the air in and around the material handling equipment. There is a potential that the collected dust or particulates could come into contact with storm water. Therefore the site map must indicate the location of this potential source. The site map for the facility must clearly indicate the portion of the facility which drains to sedimentation or recycle ponds that receive process wastewater. This information is necessary to illustrate the portion of the site where runoff is already controlled. The site map must also indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls (e.g. storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map. The site map for these facilities must also indicate the portion of the site where regular sweeping or other equivalent good housekeeping measures will be implemented to prevent the accumulation of spilled materials or settled dust.

(2) Measures and Controls. Part VI.C.3. of today's fact sheet describes a number of measures and controls which are effective in controlling the discharge of pollutants in storm water discharged from a number of types of industrial activities including those facilities in Major SIC Group 32. The following section describes BMPs which EPA believes are particularly effective in controlling the pollutants discharged from glass, clay, cement, concrete or gypsum manufacturing facilities. Facilities covered under Part XI.E. are required to consider each of these BMPs or its equivalent in their pollution prevention plan.

(a) Good Housekeeping—Today's permit requires that the pollution prevention plans for facilities covered under this section must specifically address measures to minimize the discharge of spilled cement, sand, kiln dust, fly ash, settled dust or other significant materials in storm water from paved portions of the site that are exposed to storm water. Measures used to minimize the presence of these materials may include regular sweeping, or other equivalent measures. The plan shall indicate the frequency of sweeping or other measures. The frequency shall be determined based upon consideration of the amount of industrial activity occurring in the area and frequency of precipitation. This requirement is established in an effort to minimize the discharge of solids from these types of facilities. Sweeping to prevent the discharge of solids must be considered in the pollution prevention plan because it is a cost effective measure well suited to the dry, granular, and powder-like materials used at the facilities covered under this section.

This section also requires that facilities minimize the exposure of fine solids such as cement, fly ash, baghouse dust, and kiln dust to storm water. The pollution prevention plan shall consider storing these materials in enclosed silos, hoppers, or other containers, in buildings, or in covered areas of the facility. Fine solids are a particular concern because the small particles are readily suspended by storm water and carried off of the site.

(b) Preventative Maintenance—There are no additional preventative maintenance requirements beyond these described in Part VI.C.3 of this fact sheet.

(c) Spill Prevention and Response—There are no additional spill prevention and response requirements for facilities in the glass, clay, cement, concrete or gypsum products industries beyond those described in Part VI.C.3.c. of this fact sheet.

(d) Inspections—Facilities in the glass, clay, cement, concrete, and gypsum products industries are required to conduct self inspections at a frequency which they determine to be adequate to ensure proper implementation of their pollution prevention plan, but not less frequently than once per month. Monthly inspections are necessary for the facility to be able to assess the effectiveness of

the pollution prevention plan. Less frequent inspections may allow facilities to delay inspections until after periods of high activity when the greatest potential for exposure of materials occurs. This section requires that the inspections take place while the facility is in operation because this is the only time when potential pollutant sources (such as malfunctioning dust control equipment or non-storm water discharges from equipment washing operations) may be evident. The inspectors must observe several portions of the site which EPA believes are potential sources of pollutants in storm water including: material handling areas, above ground storage tanks, hoppers or silos, dust collection/containment systems, vehicle washing, and equipment cleaning areas.

(e) Employee Training—In addition to the requirements described in Part VI.C.3.e. of this fact sheet, the pollution prevention plan training requirements for facilities in the glass, clay, cement, concrete, and gypsum industries require that the employee training program address procedures for equipment and vehicle washing. This is because these are common activities in these industries which result in process wastewater which may be discharged into the storm water conveyance system. Training programs should focus on where and how equipment should be cleaned at the facility so that there will be no unpermitted discharge of wash water to the storm water conveyance system. EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan.

(f) Recordkeeping and Internal Reporting Procedures—There are no additional recordkeeping and internal reporting procedure requirements for facilities in the stone, clay, glass or concrete products industries beyond than those described in Part VI.C.3.f. of this fact sheet.

(g) Non-storm Water Discharges—There are no additional non-storm water discharge certification requirements for facilities in the stone, clay, glass or concrete products industries beyond those described in Part VI.C.2.d. of this fact sheet with the exception of facilities engaged in production of concrete products. These facilities must include in the certification a description of measures which insure that process wastewater which results from washing of trucks, mixers, transport buckets, forms or other equipment are discharged in accordance with NPDES requirements or are recycled. These nonprocess wastewater discharges are common to this industry. However, these discharges are not eligible for coverage under this section and it is necessary to assess the facility for the presence of these discharges so that steps may be taken to eliminate the discharges or to cover the process discharges with a separate permit.

A number of facilities in the concrete products industry maintain wash water recycle/retention ponds which receive the process wastewater from equipment cleaning and other operations. These ponds may also receive a portion or all of the runoff from the industrial site. These facilities are required to provide an estimate of the depth of the 24-hour duration storm event that would be required to cause the recycle/retention pond to overflow and discharge to the waters of the United States. Methods to make this estimate can include, but are not limited to, the original design calculations for the recycle/retention pond or historical observation.

(h) Sediment and Erosion Control—There are no additional sediment and erosion control requirements for facilities in the stone, clay, glass, or concrete products industries beyond those described in Part VI.C.3.g. of this fact sheet.

(i) Management of Runoff—There are no additional requirements for management of runoff at facilities in the stone, clay, glass, or concrete products industries beyond than those described in Part VI.C.3.h. of this fact sheet.

(3) Comprehensive Site Compliance Evaluation. Facilities in the glass, clay, cement, concrete, and gypsum product sector must perform an annual site compliance evaluation as described in Part VI.C.4. of this fact sheet. For facilities in the concrete product manufacturing industries, the evaluation must specifically address the following portions of the site: above ground storage tanks, hoppers or silos; dust collection/containment systems; truck wash down; and equipment cleaning areas. Because these areas are the most likely sources of pollutants, these portions of the site must be thoroughly evaluated.

6. Numeric Effluent Limitations

Part XI.E.4. of today's permit establishes numeric effluent limitations for storm water discharges from storage areas for materials used or produced at cement manufacturing facilities. Discharges from these areas may not exceed a maximum TSS concentration of 50 mg/L. The pH of the discharges from these areas must be within the range of 6.0 to 9.0. Untreated discharges from the facility which are a result of a storm with a rainfall depth greater than the 10-year, 24-hour storm event are not subject to this limitation. These effluent limitations are in accordance with 40 CFR 411.32 and 40 CFR 411.37. Effluent Guidelines and Standards, Cement Manufacturing Point Source Category, Materials Storage Piles Runoff Subcategory. These limitations represent the degree of effluent reduction attainable by the application of best practicable control technology and best conventional pollutant control technology. Dischargers subject to these numeric effluent limitations must be in compliance with the limits upon commencement of and for the entire term of this permit. Discharges that are associated with industrial activities that do not contain runoff from material storage areas at cement manufacturing facilities are not subject to the effluent limitation described above.

7. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. EPA believes that glass, clay, cement, concrete, and gypsum product manufacturing may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan, requires two of the four subsectors within the glass, clay, cement, concrete and gypsum product manufacturing sector to perform analytical monitoring.

The clay product subsector includes brick and structural clay tile manufacturers (SIC 3251), ceramic wall and floor tile manufacturers (SIC 3253), clay refractories (SIC 3255), manufacturers of structural clay products, not elsewhere classified (SIC 3259), manufacturers of vitreous china table and kitchen articles (SIC 3232), manufacturers of fine earthenware table and kitchen articles (SIC 3263), manufacturers of porcelain electrical supplies (SIC 3264), pottery products (SIC 3269) and non-clay refractories (3297). Data submitted by group applicants within this subsector show that a significant portion of the facilities discharge aluminum concentrations higher than bench mark values. Therefore facilities with these industrial activities must monitor for the pollutant identified in Table E–7.

The concrete and gypsum subsector includes concrete block and brick manufacturers (SIC 3271), concrete

products manufacturers (SIC 3272), ready mix concrete manufacturers (SIC 3273), gypsum product manufacturers (SIC 3275) and manufacturers of mineral and earth products (SIC 3295). Data submitted by group applicants within this subsector show that a significant portion of the facilities discharge total suspended solids and iron in concentrations higher than bench mark values. Therefore facilities with these industrial activities must monitor for pollutants identified in Table E–8.

The glass product subsector includes flat glass manufacturers (SIC 3211), glass container manufacturers (SIC 3221), pressed and blown glass and glassware manufacturer (SIC 3229), and manufacturers of glass products made of purchased glass (SIC 3231). Monitoring data submitted by facilities within this subsector do not indicate that these facilities are likely to discharge storm water with pollutant concentrations greater than the bench marks. Therefore, this sector is not subject to analytical monitoring requirements under this permit.

The cement manufacturing subsector includes manufacturers of hydraulic cement (SIC 3241). This subsector is not subject to the analytical monitoring requirements under Section XI.E.5.a this permit. However, because these facilities are subject to numerical effluent limitations they are subject to compliance monitoring described in section XI.E.5.d of the permit.

At a minimum, storm water discharges from clay and gypsum, and concrete product manufacturing must be monitored quarterly (January through March, April through June, July through September and October through December) during the second year of permit coverage. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Tables E–7 and E–8. If the permittee collects more than four samples in this period, then they must calculate an average concentration for all parameters analyzed, not simply a minimum of four selected analysis.

TABLE E–7.—CLAY PRODUCT INDUSTRY MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Recoverable Aluminum	0.75 mg/L.

TABLE E–8.—CONCRETE AND GYPSUM PRODUCT INDUSTRY MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Suspended Solids (TSS) ...	100 mg/L.
Total Recoverable Iron	1.0 mg/L.

If the average concentration for a parameter is less than or equal to the value listed in Tables E–7 or E–8, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Tables E–7 or E–8, then the permittee is required to conduct quarterly (in the same quarterly periods listed above) monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit.

TABLE E–9.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table E–7 or E–8, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table E–7 or E–8, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table E–7 or E–8. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, there are monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis, in lieu of sampling required under Part XI E.5 of today's permit, that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in lieu of monitoring reports required under Part XI E.5.b. The permittee is required to

complete any and all sampling until the exposure is eliminated. If the facility is reporting for a partial year, the permittee must specify the exposure was eliminated. If the permittee is certifying that a pollutant was present for part of the reporting period, nothing relieves the permittee from the responsibility to sample that parameter up until the exposure was eliminated and it was determined that no significant materials remained.

This certification is not to be confused with the low concentration sampling waiver. The test for the application of this certification is whether the pollutant is exposed, or can be expected to be present in the storm water discharge. If the facility does not and has not used a parameter, or if exposure is eliminated and no significant materials remain, then the facility can exercise this certification. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*b*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report Form must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum quarterly requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)) shall be provided in the plan.

f. Quarterly Visual Examination of Storm Water Quality. Quarterly visual examinations of storm water discharges from each outfall are required. Note that this requirement applies to all facilities and not just those subject to the analytical monitoring requirements under Part VI.E.7. of this fact sheet. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once every 3 months (January through March, April through June, July through September, and October through December) during permit coverage. Examinations shall be made during daylight unless there is insufficient rainfall or snow-melt to produce runoff. Whenever practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 60 minutes) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examination. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

When a discharger is unable to collect samples over the course of the monitoring period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

g. Compliance Monitoring Requirements. Today's permit requires permittees with discharges of runoff from material storage at cement manufacturing facilities to monitor for the presence of TSS and pH. These monitoring requirements are necessary to evaluate compliance with the numeric effluent limitation established for these discharges. Monitoring shall be performed upon a minimum of one grab sample. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. Monitoring results shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the month following collection of the sample. Facilities which discharge through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must also submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system. Alternative Certification provisions described in Section VI.E.5 do not apply to facilities subject to compliance monitoring requirements in this section. Compliance monitoring is required at least annually for discharges subject to effluent limitations. Therefore, EPA cannot permit a facility to waive compliance monitoring.

F. Storm Water Discharges Associated With Industrial Activity From Primary Metals Facilities

1. Discharges Covered Under This Section

On November 16, 1990 (55 FR 47990), the U.S. Environmental Protection Agency (EPA) promulgated the regulatory definition of "storm water discharges associated with industrial activity." This definition included point source discharges of storm water from 11 categories of industrial facilities. This section of today's permit includes storm water discharges associated with industrial activity from primary metals facilities. These facilities are commonly identified by Standard Industrial Classification (SIC) code 33. The SIC codes eligible for coverage under this section of today's permit include the following:

a. Steel works, blast furnaces, and rolling and finishing mills, including: steel wiredrawing and steel nails and spikes; cold-rolled steel sheet, strip, and bars; and steel pipes and tubes (SIC 331).

b. Iron and steel foundries, including: gray and ductile iron, malleable iron, steel investment, and steel foundries, not elsewhere classified (SIC 332).

c. Primary smelting and refining of nonferrous metals, including: primary smelting and refining of copper and primary production of aluminum (SIC 333).

d. Secondary smelting and refining of nonferrous metals (SIC 334).

e. Rolling, drawing, and extruding of nonferrous metals, including: rolling, drawing, and extruding of copper; aluminum extruded products; rolling, drawing, and extruding of nonferrous metals, except copper and aluminum; and drawing and insulating of nonferrous wire (SIC 335).

f. Nonferrous foundries (castings), including: aluminum die-castings, nonferrous die-castings, except aluminum, aluminum foundries, copper foundries, and nonferrous foundries, except copper and aluminum (SIC 336).

g. Miscellaneous primary metal products, not elsewhere classified, including metal heat treating (SIC 339).

Group applications were received from facilities representing each of the categories of industry eligible for coverage under this section. A large number of group applications also included facilities identified by other SIC codes. These facilities may be covered in whole, or in part, by other sections of today's permit. In other cases, SIC codes may have been assigned improperly. The special conditions reflected in this section of today's permit relate to specific operations taking place at a facility. These operations should be used as the basis for determining permit requirements appropriate for that particular facility.

Although there are many activities common to some or all of the facilities covered by this section, some of the operations discussed are unique to a particular industry group. Due to the broad range of activities conducted by facilities in this category, it would be impossible to identify all activities occurring at facilities covered by this section. This fact sheet attempts to describe the major activities representative of many of the facilities addressed by this section and provides examples of concerns associated with storm water discharges from primary metals facilities. All materials present and industrial activities taking place at a facility that have a potential impact on storm water discharges must be addressed by the facility's pollution prevention plan, whether or not the material or activity is specifically addressed by this section.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Industry Profile

Facilities in the primary metals industry conduct a wide range of activities. The SIC manual lists seven industry groups (three-digit SIC codes), and 27 industry numbers (four-digit SIC codes) within the sector. Of these, facilities representing 21 four-digit SIC codes submitted group applications.

Due to the large number of alternate processes available for many activities conducted within the primary metals industry it is very difficult to characterize "typical" facilities. Facilities within the same industry can employ quite dissimilar processes to arrive at a similar product. Differences can be found in the types of raw materials, furnaces or ovens, casting processes, the degree of mechanization, and any finishing operations which may be employed by a particular facility. Considerable differences can also be seen between facilities based on their customers needs. Some facilities may operate as a job shop, providing finished parts to other companies. Other facilities could conduct more limited operations and pass the product on to other facilities that provide finishing operations exclusively.

These differences in specific processes, as well as in the general scale and scope of individual operations can make facilities with the same or similar SIC codes quite different. Due to the difficulty in subdividing the industry into distinct facility types, the following

discussion briefly describes the full range of activities potentially employed by members of this industry. Despite the substantial diversity within the industry group, there are a number of general operations which characterize the majority of industrial processes.

Facilities in the primary metals industry are typically involved in one or more of the following general operations: raw material storage and handling; furnace and oven related processes; preparation of molds, casts, or dies; metal cleaning, treating and finishing; and waste handling and disposal.

a. Raw Material Storage and Handling Activities. Due to the nature of the primary metals industry, large quantities of raw materials are required for many operations. The extent to which these materials are stored outside exposed to precipitation will depend on the specific operations taking place at a facility, the size of the operation, as well as the storage space available that is covered. Some of the most common materials used are metals, fuels, fluxes, refractories, sand, and an assortment of solvents, acids, and other chemicals.

The primary raw material for all facilities in the industry is the source of metal to be used or processed. For steel works, smelters, and blast furnaces, the raw material could be metallic ores, scrap, dross, or foundry returns. Foundries may use scrap materials, borings, turnings, metal ingots, pigs or a mixture of these and other materials. Rolling mills, heat treaters, and metal finishing operations will generally use billets, slabs, blooms, bars, pigs or other cast metal pieces as their primary raw material. These may be produced at another part of the same facility, or purchased from another source. Some of these materials may arrive with protective or incidental coatings of oil, oxides, or other impurities. Due to the large size and volume of some of these materials they may be stored outside.

Energy sources for facilities within the industry are also quite varied. While steel mills with coking operations may use coal as the fuel for firing coke ovens, coal would also be the raw material that would be converted to coke. Some iron and steel foundries or mini-mills may use coke as a fuel only, or may use electric arc furnaces for melting. Smaller foundries (ferrous or nonferrous) may use gas-fired or electric induction furnaces.

A variety of fluxes are often added to the molten metal to allow impurities to be removed as slag or dross. In the iron and steel industry, limestone is probably the most common flux used. Others include dolomite, soda ash, fluorspar, and calcium carbide. Nonferrous operations may use other fluxing agents or none at all.

During the melting process, refractories are used to line and protect the furnaces. These refractories have limited lives and must be replaced periodically. The life of the refractory will depend on the type of furnace as well as the material being melted. Some large furnaces require almost constant patching of the refractory materials and thus large quantities may be stored for future use.

Another common material used in casting operations is sand. Many foundries will use sands of different types to produce the molds and cores for the production of castings. Although some facilities are able to recycle their sand, others must dispose of some or all of the used sand and thus require large amounts of fresh sand as a raw material. There are also a large number of sand additives and binders which may be used to control the properties of the mold produced. "Wet" sand may contain clay, seacoal, bentonite, wood flour, phenol, iron oxide, and numerous other acids and chemicals, some of which may be toxic.

Other processes related to finishing operations can require a wide variety of solvents, chemicals, and acids. Many facilities involved in cleaning, treating, painting, or other finishing operations may store these products in tanks or drums which may be exposed to precipitation.

b. Furnace, Rolling, and Finishing Operations. The majority of processes within the primary metals industry are conducted inside. These activities include all types of furnace operations, rolling operations, as well as all kinds of metal finishing activities. Many of these operations, however, generate significant quantities of particulate matter which, if not properly controlled, can result in exposure to precipitation.

There are many different types of furnaces. Each has advantages and limitations and are used for different types of metals. Facilities may use coal, coke, or gas fired furnaces as well as electric arc or induction furnaces.

Coke ovens, or batteries, generally use coal fired furnaces to heat coal in the absence of oxygen to drive off volatiles. The resultant product is coke which is subsequently used in other furnace operations. Blast furnaces are usually operated on a continuous basis with coke, iron ore, and fluxes charged at the top of a vertical shaft while molten pig iron and slag are tapped at different levels below.

Sintering plants burn coke breeze (particles too small to use for charging in cupola or blast furnaces) mixed with iron ore, flue dust, or other products to fuse them into materials that can then be charged with regular coke in a furnace. Cupola furnaces are used by ferrous foundries and operate in essentially the same manner as blast furnaces, allowing a range of scrap steel and iron to be charged with coke and fluxes at the top of the furnace.

Basic oxygen process furnaces use a mixture of molten iron and scrap as the charge. High-purity oxygen is injected into the furnace where it combines with impurities in the charge materials and provides heat to melt the charge of scrap.

There are two types of electric furnaces in use. Electric arc furnaces operate in a batch fashion and are often used by steel mini-mills. Scrap metal is placed in the furnace along with three electrodes which provide the energy to melt the charge. Electric induction furnaces are generally smaller than other types described above and require that cleaner metals be used.

Gas-fired furnaces are often used by nonferrous foundries. They are generally small and require relatively clean metals for melting.

One trait that all types of furnaces share is the generation of significant emissions, including particulate emissions. Blast furnaces, sintering plants, and cupola furnaces, all fired by coke, have particularly high particulate emissions. These furnaces are capable of handling a relatively "dirty" charge, with significant impurities which can lead to a variety of emissions problems. For these reasons, these types of furnaces will have emissions controls such as baghouses, wet scrubbers, or electrostatic precipitators. Electric arc furnaces are also able to melt fairly "dirty" scrap and can also have significant levels of particulate emissions.

At the other end of the spectrum are smaller electric induction and gas fired furnaces which generally require a very clean charge. Although this reduces the volume of emissions concerns significantly, they are also less likely to have as extensive pollution control and thus fugitive emissions of particulates may be significant.

The effectiveness of emissions control equipment in controlling particulate generation will depend on the furnace operation, the raw materials used, the type of control equipment in place, and the degree to which it is operating properly. Fugitive emissions, faulty or improperly maintained equipment, and "dirty" raw materials can all contribute to particulate emissions that may not be captured by pollution control

equipment, and may be exposed to precipitation.

Another category of operations are rolling, drawing, and extruding operations. Facilities involved in these operations will often use furnaces similar to those described above. The metal will often be heated, and then passed through a series of rollers which alter its' dimensions, making it longer, flatter, etc. This process generally involves large amounts of contact cooling water which can contain high levels of suspended solids and oil and grease.

c. Preparation of Molds, Pouring, Cooling, and Shakeout. Foundry operations and die-casters will generally prepare the molds, casts, or dies that will determine the ultimate shape of the product to be produced. There are a number of possible operations with significant differences between them. These include sand casting, investment casing, and die casting.

Sand casting operations involve a number of possible steps and a range of materials. Casts are shaped in two sections which form the outside of the part to be produced. Cores can also be used to form inner surfaces of the parts. A variety of sands may be used and can be combined with clay and a number of other additives to give the mold the desired properties. Once the casting has cooled, it is placed on a vibrating screen which shakes loose the majority of the sand. The casting is then ready for cleaning and finishing operations. At some facilities the used sand may be recycled or some or all of the sand may need to be disposed of and replaced.

Investment casting involves the formation of a wax replica of the part to be produced, usually in a metal die. A series of wax parts may be attached to a "tree." Once a tree is completed, it is coated with a ceramic cast in a series of dipping operations. The wax may then be removed from the cast in a furnace or the metal can be poured in directly. As in sand casting, the casting is allowed to cool before the cast is removed. A separate wax form and ceramic shell must be made for each part to be produced.

Die-castings employ a more direct route from molten metal to finished part. A metal die is produced and molten metal in injected under pressure into it. Once it has cooled, the casting is removed and is ready for finishing operations. Unlike sand casting or investment casting, the die can be used over and over to produce more parts.

Like most foundry operations, molds are generally prepared indoors. There are, however, particulate emissions associated with the pouring and cooling of molten metal.

d. Metal Cleaning, Treating, and Finishing. Almost all operations in the primary metals industry result in metal products which require some degree of finishing. The type of finishing activities undertaken depend on the material being treated, as well as the properties desired in the final part and can include both mechanical and chemical operations.

Castings generally come out of their molds with metal sprues and other imperfections which must be removed. This can be done through grinding, cutting, or blasting with sand, shot, or grit. Other possible operations include drilling, threading, or dimensioning. A combination of these operations is often necessary.

Some facilities such as rolling mills will use a descaling process to remove oxides and other residues which can form on the surfaces of metallic products. Typical operations include blasting with water or sand. This produces large quantities of scale and other particulate matter which may contain other residual products such as oil.

Heat treating is another operation which can involve furnaces for controlled heating and cooling of large quantities of metal. A variety of media may be used to cool metals at different rates. Oil, water, and liquid salt baths may all be used depending on the properties desired in the finished product. Acid pickling may be used to remove unwanted material from the surface of metal. Other cleaning and finishing operations may involve a wide range of solvents, acids, or other chemicals. All of these processes can generate toxic wastes in the form of sludges, particulates, or spent baths. In addition, residuals from these operations left on the metal surface may become exposed to storm water if materials are transported or stored outside.

e. Waste Handling and Disposal. Wastes are generated from numerous sources within the primary metals industry. Some types of waste are found at a majority of facilities while others may be specific to a particular activity. Some of the common waste products include used sand, cores, butts, refractory rubble, machining and finishing wastes, slag, dross, and collected particulates such as baghouse dust.

Sand casting operations which are not able to fully recycle their sand may generate large volumes of waste or "burnt" sand. "Wet" sands may contain any one of a number of additives, depending on the specific type of casting being produced. Other related wastes include the cores and butts used in the sand casing process.

Most casting operations will produce a product which requires some degree of machining and finishing. The wastes produced will depend mainly on the material being finished and whether a mechanical or chemical process is used. Machining waste can include fines, turnings, or cuttings as well as shot, grit, and scale from blasting operations. Chemical finishing can result in waste solvents, acids, and pickling sludges and baths which contain metal wastes.

The metal melting process results in the production of slag from ferrous, or dross from nonferrous materials. The content and volume of these wastes produced will vary depending on the charge material, and any fluxing agents or additives that may be used. In general, slag is produced in greater quantities and will be more likely to be stored outside, however there is the possibility of exposure of both types of waste to precipitation.

Particulate matter generated in furnaces and during machining is another source of waste with significant potential for storm water contamination. These waste streams may be segregated at larger facilities or combined, but the concerns are essentially the same. The dusts are collected in baghouses, electrostatic precipitators, wet scrubbers, or in cyclones and disposed of. If the pollution control equipment is inadequate, or not operating effectively, there is potential for storm water contamination from these types of waste.

3. Pollutants Found in Storm Water Discharges

Impacts caused by storm water discharges from primary metals facilities will vary. A number of factors will influence to what extent the activities at a particular facility will affect water quality. These include: geographic location, hydrogeology, the amounts and types of materials stored outside, the types of processes taking place outside, the size of the operation, as well as the characteristics of a particular storm event. These and other factors will interact to affect the quantity and quality of storm water runoff. For example, particulate emissions from furnaces or ovens may be a significant source of pollutants at some facilities, while outdoor material storage such as scrap piles may be a primary source at others. In addition, sources of pollution other than storm

water, such as illicit connections,[42] spills, and other improperly dumped materials, may contribute significant levels of pollutants into waters of the United States.

A summary of industrial activities conducted by primary metals facilities in the group application process is listed in Table F–1. The table also lists the sources of pollutants related to the activity and what the specific pollutants of concern are. The table is limited to those activities which are generally conducted outside, or that have potential to contribute pollutants to storm water discharges. Many processes in the primary metals industry are conducted inside and are therefore not represented in Table F–1.

TABLE F–1.—POLLUTANTS OF CONCERN FOR MAJOR ACTIVITIES WITHIN THE PRIMARY METALS INDUSTRY

Activity	Source	Pollutants
Raw material storage and handling .	Metal product stored outside such as foundry returns, scrap metal, turnings, fines, ingots, bars, pigs, wire.	Residual or protective Oil and Grease, Metals, TSS, COD, TSS.
	Outdoor storage or handling of fluxes	pH (limestone).
	Storage piles, bins, or material handling of coke or coal	TSS, pH, metals.
	Storage or handling of casting sand or refractory	TSS.
Vehicle Maintenance	Vehicle fueling and maintenance or outdoor storage tanks and drums of gas, diesel, kerosene, lubricants, solvents.	Oil and grease.
Waste materials—handling, storage, and disposal.	Slag or dross stored or disposed of outside in piles or drums	Metals, pH.
	Fly ash, particulate emissions, dust collector sludges and solids, baghouse waste.	TSS.
	Storage and disposal of waste sand or refractory rubble in piles outside.	TSS, metals, misc. "wet" sand additives.
	Machining waste—fines, turnings, oil, borings, gates, sprues, scale ..	TSS, metals, oil and grease.
	Obsolete equipment stored outside	Oil and grease.
	Landfilling or open pit disposal of wastes onsite	See Part VIII.L.
Furnace operations and pollution control equipment.	Losses during charging of coke ovens or sintering plants and from particulate emissions.	TSS, particulates, metals, volatiles, pH.
	Particulate emissions from blast furnaces, electric arc furnaces, induction furnaces.	TSS, metals.
	Fugitive emissions from poorly maintained or malfunctioning baghouses, scrubbers, electrostatic precipitators, cyclones.	TSS, metals.
	Wastewater treatment operations exposed to precipitation	See Part VIII.T.
Rolling, casting, and finishing operations.	Exposure of wastewater used for cooling or descaling related to rolling.	Oil and grease, pH, TSS, metals, COD.
	Storage of products outside after painting, pickling, or cleaning operations.	pH, solvents, metals.
	Casting cooling or shakeout exposed to precipitation or wind	TSS, metals.
	Losses of particulate matter from machining operations (grinding, drilling, boring, cutting) through deposition or storage of products outside.	Metals, TSS.
Plant yards	Areas of the facility with unstabilized soils subject to erosion	TSS.
Illicit discharges	Improper connection of floor, sink, or process wastewater drains	Dependent on source.

Although operations at primary metals facilities may vary considerably, the elements with potential impact on storm water discharges are fairly uniform and consistent. Facilities may include considerable areas of raw and waste material storage such as coal, coke, metal, ores, sand, scale, scrap, and slag. Processes generally involve furnaces for heating and melting metals or for producing coke, any of which may result in significant particulate emissions. Due to the nature of their operations some facilities will have large areas of exposed soil and heavy vehicle traffic which can lead to erosion.

a. Raw Material Storage and Handling Activities. Raw materials with potential effects on storm water discharges fall into a number of distinct categories.

Sands used for the production of molds or cores can contribute to TSS loadings. Piles of materials may be washed away directly, or spills and windblown losses may occur during handling and process related activities.

Metal raw materials can come in numerous forms including billet, slab, pig, bar. These materials have the potential to corrode which can result in the loss of metal to a solution, i.e., water. The following metals are referred to as the galvanic (or electromotive) series and have a tendency to corrode and become soluble in water; magnesium, aluminum, cadmium, zinc, steel or iron, cast iron, chromium, tin, lead, nickel, soft and silver solder, copper, stainless steel, silver, gold, platinum, brass and bronze. For some metals, the extent and rate of corrosion is dependent on whether it occurs in an oxygen-starved or oxygen-abundant atmosphere. If materials are coated in oil to prevent corrosion, or residual chemicals used to clean or treat the metal are present, these can also be a source of pollution easily picked up by storm water runoff.

Scrap metals come in a variety of forms including machining waste such as turnings, shavings, filings, borings or as post consumer waste in a variety of forms. These materials can contribute metals, oil and grease, suspended solids, and other pollutants to storm water

[42] Illicit connections are contributions of unpermitted non-storm water discharges into storm sewers from any number of sources including sanitary sewers, industrial facilities, commercial establishments, or residential dwellings.

runoff depending on their makeup and origin.

Runoff related to storage and handling of coal and coke can contribute suspended solids, metals, as well as oil and grease to runoff. These can be released from piles, hoppers, or bins through handling or wind-blown losses. Significant losses can also occur during handling with conveyors, trucks, or while preparing charges for the furnace or sintering operations.

Fluxes such as limestone may be stored in piles, bins, or hoppers outside or become exposed to precipitation during unloading and handling activities. Limestone can increase the pH of storm water. Fluxes can also contribute to loadings of suspended solids (TSS) or have other effects depending on their makeup.

A variety of acids and solvents may be stored in drums or tanks for use in metal treating and cleaning operations. Leaks and spills from tanks and drums or during handling can result in discharges with storm water. These materials can affect pH of storm water and may be toxic.

b. Process Activities. Many processes can contribute pollutants to storm water discharges. These can include all types of furnaces, metal finishing activities, as well as material handling equipment.

Furnaces of all types can generate particulate emissions. The quantity and character of these emissions can vary greatly depending on the type of furnace, the material being melted, the fuel used, and any pollution control equipment that may be in place. In general, large coke-fired and electric arc furnaces capable of handling fairly dirty charge products will have higher emissions, but are also more likely to have sophisticated pollution control such as wet scrubbers, baghouses, and electrostatic precipitators. Smaller gas fired or electric induction furnaces generally require a fairly clean charge and have less emissions, but might also have less sophisticated controls. Settling of these emissions on roofs and plant yards are very likely to be washed away in storm water runoff. These particulates can contain a wide range of constituents which can contribute metals and suspended solids to discharges.

Material handling equipment such as conveyors, trucks, and forklifts can all contribute drippings of oil and grease as well as hydraulic fluids. This equipment may also generate or release particulate matter related to the materials being handled. Pallets, hoppers, drums, and storage bins may all contain residual materials which may become exposed to storm water.

Metal finishing operations can be divided in two general types. Mechanical operations such as grinding, blasting, boring, chipping, cutting, and descaling can all produce metal fines, chips, and turnings which may contribute metals and suspended solids to discharges. Residuals of oil or other materials on the finished goods or waste products can also contribute pollutants. Other finishing operations include acid pickling, solvent cleaning, and all types of heat treating activities. Materials that have been treated or finished may have residual chemicals on them such as pickling baths, oil or liquid salt quench media, or solvents. Exposure of these materials could contribute to pH, metals, or oil and grease in storm water discharges.

Stationary process equipment may also produce a substantial amount of residual particulate material that tends to accumulate on and around the equipment. Many materials used for primary metals production are conducive to this type of buildup. This will typically occur around rotating machinery, moving parts, bearings, conveyors and at the output of the equipment, e.g., storage containers. Particulate material that accumulates can become a source of contamination if it comes in contact with either precipitation or storm water runoff.

c. Waste Material Storage, Handling, and Disposal. Waste materials are generated in large volume from many of the facilities in this industry. These wastes can include used sand, cores and butts, refractories, slag and dross, baghouse or cyclone dusts, scrubber dusts and sludges, machining wastes, and obsolete equipment. There is potential for pollution from many of these sources if not properly stored, handled, and disposed of.

Used sands, cores, butts, and refractory rubble are all potential sources of TSS. Due to the large volumes potentially generated and their generally benign nature, these materials are often stored outside. The exposure of these materials to molten metal also presents the possibility of contamination with metals which may also get washed away with storm water.

Wastes related to pollution control equipment are particularly susceptible to being discharged with storm water if not properly controlled. These wastes could originate from baghouses, cyclones, electrostatic precipitators or scrubbers. These may be in place to control emissions from a large variety of ovens and furnaces, as well as mechanical or chemical metal finishing operations. These dusts and sludges typically contain an assortment of metals, metal oxides, and other particulate matter. The size of particulates that are able to be captured will vary from one type of equipment to the next and will depend on proper operation and maintenance.

Machining and finishing waste which is not collected as described above may also be generated in significant quantities. This material is typically metallic fines and particulate matter but may contain cutting oil or other materials as well. If stored outside in piles, drums, hoppers, or other containers these materials can contribute metals, TSS, or oil to precipitation and storm water runoff.

d. Erosion and Sediment Loss. Erosion from plant yards is another potential source of storm water contamination from primary metals facilities. Areas of vehicle traffic related to material handling, loading, unloading, material storage areas etc. may all have exposed soils with the potential for erosion. These soils can contribute to TSS loadings in storm water discharges. Exposed surfaces also limit the potential for housekeeping measures such as sweeping, making spills of other materials (particulate or liquid) harder to clean up and more likely to be washed away with storm water. The large size of many primary metals facilities makes this a concern. For example: one group application consists of 5 facilities with a total land area of 623 acres. Of this, approximately 105 acres (16.9 percent) were impervious surfaces (buildings, paved areas), leaving 83 percent of the total area potentially susceptible to erosion. Vehicle traffic, material handling, and storage activities taking place in unstabilized areas can all lead to erosion.

e. Group Application Monitoring Data. Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the primary metals industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: steel works, blast furnaces, and mills (SIC 331); iron and steel foundries (SIC 332); primary smelting and refining of nonferrous metals (SIC 333); secondary smelting and refining of nonferrous metals (SIC 334); nonferrous rolling and drawing (SIC 335); nonferrous foundries (SIC 336); and miscellaneous primary metals products (SIC 339). Tables F–2, F–3, F–4, and F–5 below include data for the eight pollutants that all facilities were required to monitor for under Form 2F.

The tables also list those parameters that EPA has determined may merit further monitoring. Tables are not included for primary smelting and refining of nonferrous metals manufacturing facilities; secondary smelting and refining of nonferrous metals manufacturing facilities; and miscellaneous primary metal products facilities subsectors because less than three facilities submitted data for each of these subsectors.

TABLE F–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY STEEL WORKS, BLAST FURNACES, AND ROLLING AND FINISHING MILLS SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant / Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	8	8	17	15	17.2	16.3	1.0	1.0	80.0	60.0	10.0	9.30	59.3	59.3	119.4	128.7
COD	9	8	17	15	100.2	74.7	19.0	9.0	340.0	255.0	62.0	55.0	267.9	215.4	514.6	380.6
Nitrate + Nitrite Nitrogen	9	8	16	14	2.01	1.41	0.06	0.06	15.50	9.5	0.51	0.40	7.06	4.82	16.5	11.6
Total Kjeldahl Nitrogen	9	8	17	15	1.81	1.32	0.00	0.64	4.50	2.7	1.60	1.10	4.17	2.29	6.15	2.96
Oil & Grease	9	N/A	17	N/A	3.1	N/A	0.0	N/A	16.4	N/A	2.0	N/A	9.8	N/A	18.4	N/A
pH	9	N/A	17	N/A	N/A	N/A	5.4	N/A	8.8	N/A	7.5	N/A	8.5	N/A	10.5	N/A
Total Phosphorus	9	8	17	15	0.51	0.26	0.01	0.02	2.26	0.80	0.42	0.20	2.89	1.08	6.55	2.29
Total Suspended Solids	9	8	17	15	173	82	0	0	866	717	66	39	1123	346	4141	1030
Aluminum	3	3	5	5	3.24	1.9	0.3	0.3	7.9	6	2.8	1.1	15.51	7.1	35.7	15.24
Zinc	7	6	14	11	1.556	1.206	0	0	16	9.8	0.29	0.37	5.471	5.73	19.46	19.445

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE F–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY IRON AND STEEL FOUNDRIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant / Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	31	30	54	55	35.8	57.6	0.0	0.0	1200.0	8570.0	11.0	10.0	79.3	64.0	176.7	133.2
COD	32	31	64	57	287.9	118.3	0.0	0.0	3800.0	840.0	105.5	76.0	1046.0	339.1	2731.7	605.9
Nitrate + Nitrite Nitrogen	31	30	54	55	0.77	0.86	0.00	0.03	8.90	4.50	0.58	0.62	2.17	3.02	6.64	6.05
Total Kjeldahl Nitrogen	31	30	54	57	1.50	3.18	0.00	0.0	30.00	24.0	2.00	1.81	11.05	9.64	21.84	18.7
Oil & Grease	31	N/A	54	N/A	6.5	N/A	0.0	N/A	140.0	N/A	0.0	N/A	24.1	N/A	69.3	N/A
pH	31	N/A	55	N/A	N/A	N/A	2.6	N/A	10.3	N/A	7.6	N/A	10.1	N/A	11.4	N/A
Total Phosphorus	31	30	55	57	1.79	0.46	0.00	0.00	76.00	4.00	0.28	0.22	5.87	1.65	10.33	3.73
Total Suspended Solids	31	30	55	57	594	228	0	1.0	6300	1200	138	123	2944	1000	8264	2417
Aluminum	11	11	11	11	5.99	5.38	0	0	20	21.4	4.49	3.3	47.24	17.51	141.97	33.1
Copper	27	26	57	50	7.919	5.155	0	0	210	140	0.09	0.04	6.826	3.962	31.253	15.875
Iron	4	3	8	7	8.3	10.1	0.2	0.4	26.3	30.4	8.6	8.1	62	54.5	170.5	134.8
Pyrene	3	3	4	4	.06	0.02	0	0	0.23	0.07	0.01	0	0.58	.....	2.37	.....
Zinc	29	28	62	54	18.35	14.385	0.01	0.047	430	330	0.57	0.46	23.162	14.843	96.353	82.671

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE F–4.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY ROLLING, DRAWING, AND EXTRUDING OF NONFERROUS METALS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant / Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	8	8	20	10	58.4	32.0	5.5	3.2	150.0	110.0	22.0	18.5	126.4	126.6	252.5	282.8
COD	8	8	20	20	138.9	80.8	0.0	0.0	495.0	230.0	93.5	50.8	480.5	269.3	950.7	583.5
Nitrate + Nitrite Nitrogen	7	7	19	19	1.75	3.71	0.10	0.80	5.61	19.1	1.80	1.86	7.58	11.8	16.76	24.52
Total Kjeldahl Nitrogen	8	8	20	20	4.71	6.45	0.54	0.6	36.00	42.0	2.68	1.85	15.68	19.77	32.73	48.67
Oil & Grease	8	N/A	20	N/A	2.5	N/A	0.0	N/A	20.0	N/A	1.1	N/A	8.2	N/A	15.9	N/A
pH	8	N/A	20	N/A	N/A	N/A	4.1	N/A	8.8	N/A	6.2	N/A	8.6	N/A	9.9	N/A
Total Phosphorus	8	8	20	20	0.12	0.10	0.00	0.0	0.50	0.30	0.09	0.06	0.38	0.31	0.60	0.56
Total Suspended Solids	8	8	20	20	45	58	0	0	429	310	7	8	183	310	531	1043
Copper	8	8	20	20	0.931	0.822	0	0	5.8	3.4	0.13	0.14	5.106	6.501	20.38	29.326
Zinc	8	8	20	20	0.526	0.417	0.021	0.04	2.3	1.9	0.3	0.3	1.606	1.189	5.657	2.085

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE F–5.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY NONFERROUS FOUNDRIES (CASTINGS) SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant / Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	14	14	30	27	14.7	12.8	0.0	3.0	51.0	47.0	10.5	8.0	38.6	29.6	53.1	45.3
COD	14	14	30	27	125.1	82.8	5.0	7.0	1400.0	510.0	50.5	32.0	390.9	280.1	807.0	535.7
Nitrate + Nitrite Nitrogen	13	13	28	25	0.99	0.86	0.00	0.00	3.60	2.00	0.74	0.77	2.80	2.12	4.64	3.32
Total Kjeldahl Nitrogen	13	13	28	25	2.29	2.17	0.15	0.56	22.00	9.70	1.30	1.40	8.34	5.08	12.06	8.19
Oil & Grease	14	N/A	30	N/A	4.2	N/A	0.0	N/A	47.0	N/A	0.8	N/A	16.7	N/A	35.5	N/A
pH	14	N/A	29	N/A	N/A	N/A	2.8	N/A	8.0	N/A	6.8	N/A	8.8	N/A	10.1	N/A
Total Phosphorus	14	14	30	26	0.26	0.18	0.00	0.0	1.50	0.96	0.07	0.05	1.17	0.52	3.56	1.26
Total Suspended Solids	14	14	29	26	145	111	0	0	2150	1100	20	37	536	563	1521	1761
Copper	14	14	30	27	0.484	0.672	0	0	4.2	7	0.26	0.2	1.881	2.532	6.122	6.122
Zinc	13	13	28	25	1.495	1.494	0	0	9.36	10.1	0.86	0.5	6.429	5.424	18.468	15.367

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

Although there are a wide range of pollutants which may be of concern for primary metals facilities, monitoring requirements for these facilities have been determined based on industry subgroups which exceed benchmarks for certain pollutants. As Tables F–2 through F–5 illustrate, there are a variety of pollutants which must be addressed at primary metals facilities.

4. Options for Controlling Pollutants

There are five main areas of concern related to primary metals facilities. These are raw material storage and handling; waste material storage, handling, and disposal; furnace, oven, and related pollution control activities; rolling, extruding, casting, and finishing operations; plant yards; and illicit connections.

Table F–6 summarizes the primary sources of pollution in each of these categories and potential Best Management Practices (BMPs) associated with each.

TABLE F–6.—POTENTIAL BEST MANAGEMENT PRACTICES FOR SOURCES WITHIN THE PRIMARY METALS INDUSTRY

Source	Potential best management practices
Metal product stored outside such as foundry returns, scrap metal, turnings, fines, ingots, bars, pigs, wire.	Store all wastes indoors or in sealed drums, covered dumpsters, etc.
	Minimize raw material storage through effective inventory control.
	Minimize runon from adjacent properties and stabilized areas to areas with exposed soil with diversion dikes, berms, curbing, concrete pads, etc.
Outdoor storage or handling of fluxes	Store fluxes in covered hoppers, silos, or indoors and protect from wind-blown losses.
	Stabilize areas surrounding storage and material handling areas and establish schedule for sweeping.
Storage piles, bins, or material handling of coke or coal.	Where possible store coke and coal under cover or indoors and protect from wind-blown losses.
	Prevent or divert runon from adjacent areas with swales, dikes, or curbs.
	Minimize quantities of coke or coal stored onsite through implementation of effective inventory control.
	Trap particulates originating in coke or coal storage or handling areas with filter fabric fences, gravel outlet protection, sediment traps, vegetated swales, buffer strips of vegetation, catch-basin filters, retention/detention basins or equivalent.
Storage or handling of casting sand	Store raw sand in silos, covered hoppers, or indoor whenever possible.
	Prevent or divert runon from adjacent areas with swales, dikes, or curbs.
	Minimize quantities of sand stored onsite through implementation of effective inventory control.
	Tarp or otherwise cover piles.
	Trap particulates originating in coke or coal storage or handling areas with filter fabric fences, gravel outlet protection, sediment traps, vegetated swales, buffer strips of vegetation, catch-basin filters, retention/detention basins or equivalent.
Vehicle fueling and maintenance	See Part VIII.P.
Outdoor storage tanks or drums of gas, diesel, kerosene, lubricants, solvents.	Store tanks and drums inside when possible.
	Establish regular inspection of all tanks and drums for leaks, spills, corrosion, damage, etc.
	Utilize effective inventory control to reduce the volume of chemicals stored onsite.
	Prevent runon to and runoff from tank and drum storage areas, provide adequate containment to hold spills and leaks.
	Prepare and train employees in dealing with spills and leaks properly, use dry clean-up methods when possible.
Slag or dross stored or disposed of outside in piles or drums.	Collect waste waters used for granulation of slag—these are not allowed under this section.
	Store slag and dross indoors, under cover, or in sealed containers.
	Establish regular disposal of slag or dross to minimize quantities stored and handled onsite.
	Minimize runon to slag storage areas with diversion dikes, berms, curbing, vegetated swales.
	Trap particulates originating in slag storage areas with filter fabric fences, gravel outlet protection, sediment traps, vegetated swales, buffer strips of vegetation, catch-basin filters, retention/detention basins or equivalent.
Fly ash, particulate emissions, dust collector sludges and solids, baghouse dust.	Store all dusts and sludges indoors to prevent contact with storm water or losses due to wind.
	Establish regular disposal schedule to minimize quantities of pollutants stored and handled onsite.
Storage and disposal of waste sand or refractory rubble in piles outside.	Move piles under cover or tarps whenever possible.
	Establish regular disposal schedule to minimize quantities stored onsite.
	Stabilize areas of waste product storage and perform regular sweeping of area.
Scrap processing activities (shredding etc:)	See Part VIII.N.
Machining waste stored outside or exposed to storm water—fines, turnings, oil, borings, gates, sprues, scale.	Store all wastes indoors or in sealed drums, covered dumpsters, etc.
	Stabilize areas of waste product storage and perform regular sweeping and cleaning of any residues.

TABLE F–6.—POTENTIAL BEST MANAGEMENT PRACTICES FOR SOURCES WITHIN THE PRIMARY METALS INDUSTRY—Continued

Source	Potential best management practices
	Consider using booms, oil/water separators, sand filters, etc. for outfalls draining areas where oil is potentially present.
	Minimize runon from adjacent properties and stabilized areas to areas with exposed soil with diversion dikes, berms, curbing, concrete pads, etc.
Obsolete equipment stored outside	Where possible, dispose of unused equipment properly, or move indoors.
	Cover obsolete equipment with a tarp or roof.
	Consider using booms, oil/water separators, sand filters, etc. for outfalls draining areas where oil is potentially present.
	Minimize runoff coming into contact with old equipment through berms, curbs, or placement on a concrete pad.
Material losses from handling equipment such as conveyors, trucks, pallets, hoppers, etc.	Schedule frequent inspections of equipment for spills or leakage of fluids, oil, or fuel.
	Inspect for collection of particulate matter on and around equipment and clean. Where possible cover these areas to prevent losses to wind and precipitation.
	Store pallets, hoppers, etc. which have residual materials on them under cover, with tarps, or inside.
Losses during charging of coke ovens or sintering plants.	Cover any exposed areas related to furnace charging/material handling activities.
	Stabilize areas around all material handling areas and establish regular sweeping.
	Route runoff from particulate generating operations to sediment traps, vegetated swales, buffer strips of vegetation, catch-basin filters, retention/detention basins or equivalent.
Particulate emissions from blast furnaces, electric arc furnaces, induction furnaces and fugitive emissions from poorly maintained or malfunctioning baghouses, scrubbers, electrostatic precipitators, cyclones.	Establish schedule for inspection and maintenance of all pollution control equipment—check for any particulate deposition from leaks, spills, or improper operation of equipment and remedy.
	Route runoff from particulate generating operations to sediment traps, vegetated swales, buffer strips of vegetation, catch-basin filters, retention/detention basins or equivalent.
Storage of products outside after painting, pickling, or cleaning operations.	Store all materials inside or under cover whenever possible.
	Prevent runon to product storage areas through curbs, berms, dikes, etc.
	Consider using booms, oil/water separators, sand filters, etc. for outfalls draining areas where oil is potentially present.
	Remove residual chemicals from intermediate or finished products before storage or transport outside.
Casting cooling or shakeout operations exposed to precipitation or wind.	Perform all pouring, cooling, and shakeout operations indoors in areas with roof vents to trap fugitive particulate emissions.
	Recycle into process as much casting sand as possible.
Landfilling or open pit disposal of wastes onsite	See Part VIII.L.
Losses of particulate matter from machining operations (grinding, drilling, boring, cutting) through deposition or storage of products outside.	Store all intermediate and finished products inside or under cover.
	Consider using booms, oil/water separators, sand filters, etc. for outfalls draining areas where oil is potentially present.
	Clean products of residual materials before storage outside.
	Stabilize storage areas and establish sweeping schedule.
Areas of the facility with unstabilized soils subject to erosion.	Minimize runon from adjacent properties and stabilized areas to areas with exposed soil with diversion dikes, berms, vegetated swales, etc.
	Stabilize all high traffic areas including all vehicle entrances, exits, loading, unloading, and vehicle storage areas.
	Conduct periodic sweeping of all traffic areas.
	Trap sediment originating in unstabilized areas. Filter fabric fences, gravel outlet protection, sediment traps, vegetated swales, buffer strips of vegetation, catch-basin filters, retention/detention basins or equivalent.
	Inspect and maintain all BMPs on a regular basis.
	Provide employee training on proper installation and maintenance of sediment and erosion controls.
Improper connection of floor, sink, or process wastewater drains.	Inspect and test all floor, sink, and process wastewater drains for proper connection to sanitary sewer and remove any improper connections to storm sewer or waters of the United States.

5. Special Conditions

The following section identifies special conditions that are applicable to permittees applying for coverage under Part XI.F. of today's permit.

a. Prohibition of Non-storm Water Discharges. This section requires primary metals facilities to certify that certain non-storm water discharges are not occurring at their facilities. A list of common non-storm water discharges that are not authorized by this section has been identified. These discharges are prohibited due to the likelihood these discharges will contain substantial pollutant concentrations. This list is included in the permit only to add more specificity to the general non-storm water prohibition included in Part III.A. of the permit. The following non-storm water discharges are not authorized by this section: waste discharges to floor drains or sinks connected to the facilities storm sewer or storm drainage system; water originating from vehicle and equipment washing; steam cleaning wastewater; process wastewater; washwater originating from cleaning plant floor areas or material receiving areas; wastewater from wet scrubbers; boiler blowdown; contact or noncontact cooling water; discharges originating from dust control spray water;

discharges originating from the cleaning out of oil/water separators or sumps; discharges from bermed areas with a visible oily sheen or other visible signs of contamination; discharges resulting from casting cleaning or casting quench operations; discharges from slag quench or slag rinsing operations; and discharges from wet sand reclamation operations.

This final list of non-storm water discharges does not include discharges from oil/water separators and sumps, as was proposed. EPA intended to include only discharges originating from the cleaning or maintenance of these devices in this list.

The operators of non-storm water discharges must seek coverage under a separate NPDES permit if discharging to either a municipal separate storm sewer system or to waters of the United States.

6. Storm Water Pollution Prevention Plan Requirements

a. Contents of the Plan. All facilities covered by this section must identify a pollution prevention team, prepare a description of all potential pollutant sources at the facility, and identify measures and controls appropriate for the facility. These items must comply with the common requirements described in Part VI.C. of this fact sheet. In addition to these requirements, facilities covered by Part XI.F. of today's permit must provide the following additional information in their pollution prevention plan.

(1) Description of Potential Pollutant Sources. Facilities must identify on the site map the location of any and all pollution control equipment such as baghouses, wet scrubbers, electrostatic precipitators, etc. as well as any uncontrolled stack emissions which may be located onsite. The site map must also indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls (e.g. storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map. Due to the hazardous nature of pollutants generated in this industry, and the potential for deposition of particulate matter from emissions, these emissions can be a significant contributor to pollutants at a facility and should be identified.

(2) Measures and Controls. There are typically five types of activity and materials present at facilities in the primary metals industry with potential impacts on storm water discharges. These have been discussed in today's fact sheet and include: raw materials storage and handling; process activities related to furnace operations, casting, rolling, and extruding; waste material storage, handling, and disposal; erosion from unstabilized plant areas; and illicit discharges, spills, and leaks. Each of these areas that is applicable to a facility must be identified in the pollution prevention plan and evaluated with regard to the BMPs discussed.

(a) Good Housekeeping—This section requires that facilities implement measures to limit the amount of spilled, settled, and leaked materials which are washed away by storm water. These materials include coal dust or coke breeze, metal fines from finishing operations, particulate emissions from furnaces and ovens, as well as dust and dirt from plant yards. In paved or other impervious areas sweeping is an easy and effective way to reduce these pollutants. Sweeping frequency should be determined based on the rates of accumulation of a particular material and its potential impact on storm water discharges. Where significant particulates are generated in unstabilized areas of the plant, other measures may be necessary.

The large number of particulate generating processes and the makeup of these pollutants makes this an especially important aspect of pollution prevention at many facilities. Permittees must consider the storage of all such products under roof, in silos or covered hoppers, or under tarps to minimize exposure of particulates to precipitation and wind-blown losses.

Unstabilized areas at a site which may be related to material handling and storage or vehicle and equipment traffic should be considered for paving. These areas can build up significant levels of particulates from materials and material handling as well as soil and dust particles. Paving these areas allow good housekeeping measures to be practiced and make spills easier to clean up.

(b) Source Controls—Permittees must consider preventative measures to minimize the exposure of significant materials to storm water. Due to the large volumes of materials used in the primary metals industry, they are a significant potential source of pollutants in storm water discharges. Storage of a wide range of materials outside is common among many facilities and measures should be taken to reduce the potential for contamination of storm water.

Measures include moving materials inside, under roof or cover, removing waste materials from the premises, and establishing scheduled removal of wastes to minimize storage onsite. Other measures to prevent runoff from contacting materials include swales, berms, dikes, or curbs to divert runoff away from significant materials or processes.

Source controls offer the most effective way to reduce pollutants in storm water discharges and are generally easier to implement than treatment measures.

(c) Preventive Maintenance—Facilities must incorporate into their plan the inspection and maintenance of all equipment which could lead to releases of pollutants. This includes all particulate emissions control equipment, storage tanks and piping systems, and any other material handling equipment which could fail and release pollutants.

All particulate pollution control equipment must be maintained to operate properly and effectively to control settling of particulate matter. The inspection of emissions control is particularly important as failures may not be immediately obvious and could lead to significant releases of particulate matter. Leaks or blockage in ducts, overflows of dust collection systems, or mechanical breakdown of scrubbers could all lead to heavy particulate emission which can be easily washed away by storm water discharges. Other potential losses include leaking tanks or valves which could contain a variety of acids, solvents, or other chemicals.

(d) Spill Prevention and Response Procedures—There are no additional requirements beyond those described in Part VI.C. of this fact sheet.

(e) Inspections—Primary metals facilities are required to conduct self inspections of all storage, process, and plant yard areas at least quarterly. These inspections will allow the effectiveness of the pollution prevention plan to be monitored. The potential for problems which could affect storm water are extremely varied and can have significant impacts over a short time period. These inspections are necessary to ensure that problems are identified and remedied as quickly as possible. Points of particular importance include pollution control equipment, material handling areas, and waste collection and disposal areas. Tanks, drums, silos, bins, and hoppers are other areas of potential concern.

(f) Employee Training—There are no additional requirements beyond those described in Part VI.C. of this fact sheet. EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to

the storm water pollution prevention plan.

(g) Recordkeeping and Internal Reporting Procedures—There are no additional requirements beyond those described in Part VI.C. of this fact sheet.

(h) Non-storm Water Discharges—There are no additional requirements beyond those described in Part VI.C. of this fact sheet.

(i) Sediment and Erosion Control—There are no additional requirements beyond those described in Part VI.C. of this fact sheet.

(j) Management of Runoff—Facilities shall consider implementation of a range of management practices to control or treat storm water runoff. These include vegetative buffer strips or swales, filter fences and other types of filters, oil/water separators, and all types of settling basins and ponds. These practices allow the capture of pollutants from storm water before it leaves the site.

Due to the large size of many primary metals facilities, source controls may not be practical. In some cases, it may not be feasible to cover or otherwise protect large areas of material storage or exposed plant yards. Deposition of particulates from furnace or other process emissions may be relatively diffuse over a large area of the facility, and very difficult to control. In these cases management practices such as settling basins, retention or detention ponds, or recycle ponds can provide effective treatment of runoff. For smaller areas, filter fabric, booms, or other types of filters may be appropriate. In areas where oil and grease is a concern, oil/water separators may be appropriate and should be considered.

b. Comprehensive Site Compliance Evaluation. The storm water pollution prevention plan must describe the scope and content of comprehensive site evaluations that qualified personnel will conduct to 1) confirm the accuracy of the description of potential pollution sources contained in the plan, 2) determine the effectiveness of the plan, and 3) assess compliance with the terms and conditions of the permit. Comprehensive site compliance evaluations should be conducted on an annual basis. The individual or individuals that will conduct the evaluations must be identified in the plan and should be members of the pollution prevention team. Evaluation reports must be retained for at least 3 years after the date of the compliance evaluation that the permit expires.

Based on the results of each evaluation, the description of potential pollution sources, and measures and controls, the plan must be revised as appropriate within 2 weeks after each evaluation. Changes in the measures and controls must be implemented on the site in a timely manner, and never more than 12 weeks after completion of the evaluation.

7. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. EPA believes that primary metals facilities may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan and to characterize the discharge for potential environmental impacts, the permit requires some primary metals facilities to collect and analyze samples of their storm water discharges for the pollutants listed in Table F–7. Data submitted to EPA has been analyzed at the 3-digit SIC code level. Industry subgroups that had pollutant levels above benchmark levels are required to monitor for those pollutants. Because these pollutants have been reported at benchmark levels from primary metals facilities, EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, nitrate plus nitrite nitrogen is above the bench mark concentrations for the non-ferrous rolling and drawing and the non-ferrous foundries subsectors and pyrene is above the bench mark concentrations for the iron and steel foundries subsector. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in these subsectors, EPA has determined that the higher concentrations of nitrate plus nitrite nitrogen and pyrene are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require non-ferrous rolling and drawing, the non-ferrous foundries or iron and steel foundries facilities to conduct analytical monitoring for these parameters.

At a minimum, storm water discharges from selected primary metals facilities must be monitored quarterly during the second year of permit coverage. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter that they were required to monitor as listed in Tables F–7 through F–10, after taking into account possible waivers based on the alternative certification. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE F–7.—STEEL WORKS, BLAST FURNACES, AND ROLLING AND FINISHING MILLS (SIC 331) MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Recoverable Aluminum .	0.75 mg/L
Total Recoverable Zinc	0.065 mg/L

TABLE F–8.—IRON AND STEEL FOUNDRIES (SIC 332) MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Recoverable Aluminum .	0.75 mg/L
Total Suspended Solids (TSS)	100 mg/L
Total Recoverable Copper	0.0636 mg/L
Total Recoverable Iron	1 mg/L
Total Recoverable Zinc	0.065 mg/L

TABLE F–9.—ROLLING, DRAWING, AND EXTRUDING OF NON-FERROUS METALS (SIC 335) MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Recoverable Copper	0.0636 mg/L
Total Recoverable Zinc	0.065 mg/L

TABLE F–10.—NON-FERROUS FOUNDRIES (SIC 336) MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Recoverable Copper	0.0636 mg/L
Total Recoverable Zinc	0.065 mg/L

If the average concentration for a parameter is less than or equal to the value listed in Tables F–7 through F–10, then the permittee is not required to

conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Tables F–7 through F–10, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. The schedule for monitoring is presented in Table F–11.

TABLE F–11.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Tables F–7 through F–10, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Tables F–7 through F–10, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Tables F–7 through F–10. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

The monitoring cut off concentrations listed in Tables F–7 through F–10 are not numerical effluent limitations. These values represent a level of pollutant discharge which facilities may achieve through the implementation of pollution prevention plans. At least half of the facilities which submitted Part 2 data, reported concentrations greater than or equal to the values listed in Tables F–7 through F–10. Facilities that achieve average discharge concentrations which are less than or equal to the values in Tables F–7 through F–10 are not relieved from the pollution prevention plan requirements or any other requirements of the permit.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

(1) Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hours storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(2) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)) shall be provided in the plan.

(3) Alternative Certification. Throughout today's permit, EPA has required monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of monitoring described in Tables F–10 through F–13, under penalty of law, signed in accordance with Part VII.G. of the pursuit (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA along with

the monitoring reports required under paragraph *b.* below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

b. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one Discharge Monitoring Report must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum quarterly requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

c. Quarterly Visual Examination of Storm Water Quality. Quarterly visual inspections of a storm water discharge from each outfall are required at primary metals facilities. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once per quarter during the term of the permit during daylight unless there is insufficient rainfall or snow-melt to runoff. Whenever practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (e.g., drought, extended frozen conditions, etc.).

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

G. Storm Water Discharges Associated With Industrial Activity From Metal Mining (Ore Mining and Dressing)[43] Facilities

1. Industrial Profile

On November 16, 1990 (55 FR 47990), the U.S. Environmental Protection Agency (EPA) promulgated the regulatory definition of "storm water discharges associated with industrial activity." This definition included point source discharges of storm water from eleven major categories of facilities, including: "(i) facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N * * * ." and "* * * (iii) facilities classified as Standard Industrial Classifications 10 through 14 (metal mining industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of noncoal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or that has come into contact with, any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations."

This section of today's general permit only applies to the portions of categories (i) and (iii) identified by 40 CFR Part 440 and the metal mining industry (Standard Industrial Classification (SIC) code 10). SIC code 10 includes establishments primarily engaged in mining, developing mines, or exploring for metallic minerals (ores). This group also includes all ore dressing and beneficiating operations, whether performed at mills operated in conjunction with the mines served or at mills, such as custom mills, operated separately. Common activities at these mills include: crushing, grinding, and separation by gravity concentration, magnetic separation, electrostatic separation, flotation, or leaching[44]. The following is a listing of the types of mining/milling facilities that are covered under SIC code 10: Iron Ores (SIC Code 1011); Copper Ores (SIC Code 1021); Lead and Zinc Ores (SIC Code 1031); Gold Ores (SIC Code 1041); Silver Ores (SIC Code 1044); Ferroalloy Ores, Except Vanadium (SIC Code 1061); Uranium-Radium-Vanadium Ores (SIC Code 1094); and Miscellaneous Metal Ores, Not Elsewhere Classified (SIC Code 1099).

This section does not cover any discharge subject to effluent limitation guidelines, including storm water that combines with process wastewater and mine drainage. Storm water that does not come into contact with any overburden, raw material, intermediate product, finished product, by-product, or waste product located on the site of

[43] For the purposes of this part of the fact sheet, the term "metal mining" includes all ore mining and/or dressing and beneficiating operations, whether performed at mills operated in conjunction with the mines served or at mills, such as custom mills, operated separately.

[44] For more information on metal mines/mills see EPA, Effluent Guidelines Division. November 1982. "Development Document for Effluent Limitations Guidelines and Standards for the Ore Mining and Dressing Point Source Category." EPA 440/1–82/061.

the operation is not subject to permitting under this section according to Section 402(l)(2) of the Clean Water Act. Storm water discharges associated with industrial activity from inactive mining operations occurring on Federal lands where an operator cannot be identified cannot be covered by this permit.

Storm water discharges from mining claims where no mining activities have been undertaken (including no historic activities) except minimal activities undertaken for the purpose of maintaining a mining claim do not need to be covered by a permit. (This applies to Federal and private lands.)

This section is applicable to all phases of mining operations, whether active or inactive, as long as there is exposure to significant materials. This includes land disturbance activities such as the expansion of current extraction sites, active and inactive mining stages, and reclamation activities.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

There are typically three phases to a mining operation: the exploration and construction phase; the active phase; and the reclamation phase. The exploration and construction phase entails exploration and a certain amount of land disturbance to determine the financial viability of a site. Construction includes building of site access roads, and removal of overburden and waste rock to expose minable ore. These land-disturbing activities are significant potential sources of storm water contaminants. The active phase includes each step from extraction through production of a saleable product. The active phase may include periods of inactivity due to the seasonal nature of these metal mining activities. The final phase of reclamation is intended to return the land to its pre-mining state.

Because of the land-disturbing nature of the ore mining and dressing industry, contaminants of concern generated by industrial activities in this industry include total suspended solids (TSS), total dissolved solids (TDS), turbidity, pH, and heavy metals. Table G–1 lists potential pollutant source activities, and related pollutants associated with ore mining and dressing facilities.

TABLE G–1.—ACTIVITIES, POLLUTANT SOURCES, AND POLLUTANTS

Activity	Pollutant source	Pollutant
Site Preparation	Road Construction	Dust, TSS, TDS, turbidity.
	Removal of Overburden	Dust, TSS, TDS, turbidity.
	Removal of waste rock to expose the metal	Dust, TSS, TDS, turbidity.
Mineral Extraction	Blasting activities	Dust, TSS, nitrate/nitrite.
Beneficiation Activities	Milling	Dust, TSS, TDS, pH, turbidity, fines, heavy metals.
	Flotation	Dust, TSS, TDS, pH, turbidity, fines, chemical reagents, acids, heavy metals.
	Gravity Concentration	TSS, TDS, pH, turbidity, heavy metals.
	Amalgamation	Dust, TSS, TDS, pH, turbidity, heavy metals, mercury.
	Waste Rock Storage	Dust, TSS, TDS, turbidity, pH, heavy metals.
	Raw Material Loading	Dust, TSS, TDS, turbidity, heavy metals.
	Processing materials unloading	Diesel fuel, oil, gasoline, chemical reagents.
	Raw or Waste Material Transportation	Dust, TSS, TDS, turbidity, heavy metals.
Leaching	Heap leach piles	Dust, TSS, TDS, turbidity, pH, heavy metals, cyanide.
Other Activities.	Sedimentation pond upsets	TSS, TDS, turbidity, pH, heavy metals.
	Sedimentation pond sludge removal and disposal	Dust, TSS, TDS, turbidity, pH, heavy metals.
	Air emission control device cleaning	Dust, TSS, TDS, turbidity.
Equipment/Vehicle Maintenance	Fueling activities	Diesel fuel, gasoline, oil.
	Parts cleaning	Solvents, oil, heavy metals, acid/alkaline wastes.
	Waste disposal of oily rags, oil and gas filters, batteries, coolants, degreasers.	Oil, heavy metals, solvents, acids
	Fluid replacement including hydraulic fluid, oil, transmission fluid, radiator fluids, and grease.	Oil, arsenic, lead, cadmium, chromium, benzene, TCA, TCE, PAHs, solvents.
Reclamation Activities	Site preparation for stabilization	Dust, TSS, TDS, turbidity, heavy metals.

Sources: Storm Water Group Applications, Parts 1 and 2 and EPA. "Development Document for Effluent Limitations Guidelines and Standards for the Ore Mining and Dressing Point Source Category." (EPA 440/1–82/061) November 1982.

Industrial activities, significant materials, and material management practices associated with ore mining and dressing methods are typically similar, varying only in the type of rock being mined. Examples of mineral commodities obtained from ore mining and dressing facilities include: iron; copper; lead; zinc; gold; silver; ferroalloy ores such as molybdenum, manganese, chromium, cobalt, nickel, and tungsten; uranium; radium; vanadium; aluminum; antimony; bauxite; platinum; tin; and titanium. Industrial activities include, "... but [are] not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters (as defined at 40 CFR Part 401); sites used for the storage and maintenance of material handling

equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials and intermediate and finished materials; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water" (40 CFR 122.26(b)(14)). The most common industrial activities at metallic mine sites include extraction of the metal, material crushing, and product separation. While all of these industrial activities can occur at metal mines, storm water discharges from some of the areas listed cannot be covered by this permit (see Part VIII.G.4. Discharges Covered Under This Section).

Significant materials include, ". . . but [are] not limited to: raw materials, fuels, materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; . . . hazardous substances designated under Section 101(14) of CERCLA; any chemical facilities required to report pursuant to Section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharge" (40 CFR 122.26(b)(12)). Significant materials commonly found at mining facilities include: overburden; waste rock; sub-ore piles; tailings; petroleum-based products; solvents and detergents; manufactured products; and other waste materials.

Materials management practices are defined as those practices employed to diminish contact by significant materials with precipitation and storm water runon, or practices utilized to reduce the offsite discharge of contaminants. To this end, sediment ponds, discharge diversion techniques, as well as methods of dispersion, are used to minimize impacts of significant materials on storm water. For mine sites requiring additional sources of water for processing operations, rainfall events as well as storm water runon will be managed for use in dust suppression, processing, and washing activities. Many mine sites are already equipped with sedimentation ponds and other established process wastewater treatment methods in order to meet effluent limitation guidelines. Additional storm water management practices used at mineral mining facilities include: discharge diversions; drainage/storm water conveyances; runoff dispersion; sediment control and collection practices; vegetation/soil stabilization; capping contaminated sources; and treatment.

Metals are recovered by three basic extraction techniques: surface mining; underground mining; and placer mining. Each type of extraction method may be followed by varying methods of beneficiation and processing. Presented below are brief descriptions of the industrial activities, significant materials, and materials management practices associated with these four extraction processes and associated beneficiation activities. Due to similarities in mining operations for many of the minerals within this sector, industrial activities, significant materials, and materials management practices are fairly uniform across this sector. Unique practices are noted.

a. Surface Mining. Many mining facilities access metal deposits using surface extraction techniques such as strip mining, open-pit, open-cut, and open-cast. Surface mining is more economical than underground especially when the ore body is large and near the surface.

(1) Industrial Activities. Extraction activities include removal of overburden and waste rock to access metal deposits. These land-disturbing activities generate piles of topsoil and other overburden as well as waste rock, which are typically stored beside, or within, the pit or quarry. In addition, land disturbance, drilling, blasting, stripping, and materials handling activities create large amounts of dust that are either dispersed by local wind patterns or collected in air pollution control mechanisms. At closure, overburden and waste rock may or may not be used to reclaim the pit or quarry depending on Federal, State, and local requirements. In addition, access roads and rail spurs, and associated loading and unloading areas, are found onsite.

Following extraction, the mined materials may be transferred to a nearby beneficiation/processing facility. At an ore beneficiation facility, the valuable metals are separated from the less valuable rock to yield a product which is higher in metal content. To accomplish this, the ore must be crushed and ground small enough so that each particle contains mostly the mineral to be recovered or mostly the less valuable, or gangue, material. Valuable minerals are separated from the gangue by gravity concentration, magnetic separation, electrostatic separation, flotation, and leaching.

(2) Significant Materials. Significant materials generated by most extraction activities at surface mines include overburden piles, waste rock piles, ore and subore piles, and materials spilled from loading and unloading activities. Other exposed materials that can be generated at these types of operations (as well as other metal mines), include: tailings from flotation and other separation stages; soils impacted by fugitive dust emissions; settling ponds that receive process wastewaters; dredged sediment disposal areas; as well as raw material and product storage. Dust and particulate matter collected in air pollution control mechanisms may also be disposed of in onsite waste piles.

(3) Materials Management Practices. Materials management practices at surface mines are typically designed to control dust emissions and soil erosion from extraction activities, and offsite transport of significant materials. Settling ponds and impoundments are commonly used to reduce total suspended solids (TSS), total dissolved solids (TDS), and other contaminants in process generated wastewaters. These controls may also be used to manage storm water runoff and runon with potentially few alterations to onsite drainage systems. Few sampling facilities indicated the presence of traditional BMPs. Only 29 percent of the sampling facilities have ponds or impoundments as a storm water control.

Tailings impoundments are used to manage tailings generated at facilities engaged in flotation or heavy media separation operations. These impoundments are used to manage beneficiation/processing wastewaters generated at the facility and may also be used to manage storm water runoff.

b. Underground Mining. Underground mining techniques are used to access metals located too far underground to access economically from the surface. Though typically a more expensive form of extraction, advantages to underground mining operations include year-round operation, less noise (applicable to facilities located near residential areas), and less surface land disturbance. The two main underground mining methods are stoping and caving. Both of these methods can be used in several variations depending on the characteristics of the ore body. Common stoping methods include cut-and-fill, square cut (timbered), shrinkage, and open. Caving methods include undercut, block, and sub-level. Underground mining is usually independent of surface mining, but sometimes underground mining precedes or follows surface mining.

(1) Industrial Activities/Significant Materials. Industrial activities that may be associated with storm water discharges include: loading/unloading activities; haul roads; products and materials storage; waste piles; and processing activities. Exposed materials

associated with surface beneficiation and processing facilities at underground mines are similar to those associated with surface mining facilities.

(2) Materials Management Practices. Materials management practices for significant materials at the surface of underground mining facilities are similar to those materials management practices used at surface mining operations. However, waste rock or mill tailings are in some cases being returned to the mine as fill for the mined-out areas or may be directed to a disposal basin.

c. Placer Mining. Placer mining is used to mine alluvial sands and gravels containing valuable metallic minerals. Placer deposits are usually mined exclusively for gold material but smaller amounts of platinum, tin, and tungsten may also be recovered. There are three main placer mining techniques including dredge, hydraulic, and open cut methods.

(1) Industrial Activities. The industrial activities at dredging placer mines excavate underwater gold deposits by bucketline, dragline, or by suction. The excavation devices dig, wash, and screen gold values which are then recovered using gravity concentration methods. Hydraulic placer mines characteristically use high pressure water jets to excavate value-laden gravel banks. The most commonly used placer mining extraction method is the open cut. It involves stripping away topsoil and overburden to expose the auriferous gravels. The gold bearing gravels are excavated in sections and pushed to a placer wash plant for processing. Gravitational concentration is the common beneficiating technique at placer mines.

(2) Significant Materials. Significant materials generated at placer operations include overburden, mine development rock, ore, sub-ore piles, mine waste dumps, tailings ponds and piles. Potential natural constituents include mercury, arsenic, bismuth, antimony, thallium, pyrite, and pyrrhotite. After settling, the liquid portion of the slurry is returned to the mill as process water and the remaining slurried waste is pumped to tailings. In placer operations, however, tailings are disposed of in streams or on land.

(3) Materials Management Practices. Settling ponds are used to manage process wastewaters and are in some cases being used to manage contaminated storm water runoff. Few materials management practices were indicated in the part 1 group applications.

d. Inactive Mine Sites. Inactive ore mining and dressing operations are those where industrial activities are no longer occurring. When active, mineral extraction could have occurred from surface mines, solution mines, placer operations, or underground mines. These sites are included in this section because significant materials may remain onsite. These materials, if exposed, are potential sources of storm water contamination. Until an inactive metals mine and/or beneficiation operation has been reclaimed under applicable State or Federal laws after December 17, 1990, the site is considered associated with an "industrial activity" and is subject to the conditions of this section. Due to the seasonal nature of this industry, mine sites can become temporarily inactive for extended periods of time. Temporarily inactive sites are not viewed the same as permanently inactive sites.

2. Pollutants Found in Storm Water Discharges From Metal Mining

The volume of storm water discharges and the type and concentrations of pollutants found in storm water discharges from active and inactive metal mining facilities will vary according to several factors. Such factors include: geographic location; hydrogeology; the physical and chemical characteristics of the ores extracted; the physical and chemical characteristics of the waste rock and overburden removed; how the ore was extracted (e.g., open pit, underground, solution or dredging); the type of industrial activities occurring onsite (e.g., extraction, crushing, washing, milling, reclamation, etc.); the size of the operation; type, duration, and intensity of precipitation events; temperature ranges and variations; and the types of pollutant control measures used at the site. Each of these, and other factors will interact to influence the quantity and quality of storm water runoff. For example, air emissions (i.e., dust) may be a significant source of pollutants at some facilities, while roads constructed of waste rock may be a primary source at others. In addition, sources of pollutants other than storm water, such as illicit connections, spills, and other improperly dumped materials, may increase the pollutant loadings discharged into waters of the United States.

Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the metal mining (ore mining and dressing) industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: iron ore; copper ores; lead and zinc ores, gold and silver ores; ferroalloy ores, except vanadium; metal mining services; and miscellaneous metal ores (including uranium-radium-vanadium ores). Table G–2 below includes data for the eight pollutants that all facilities were required to monitor for under Form 2F. The table also lists those parameters that EPA has determined merit further monitoring.

A table has not been included for the following subsectors because less than 3 facilities submitted data in that subsector; iron ores; lead and zinc ores; gold and silver ores; ferroalloy ores, except vanadium; metal mining services; and miscellaneous metal ores (including uranium-radium-vanadium ores).

TABLE G–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY COPPER ORE MINING FACILITIES SUBMITTING PART II SAMPLING DATA[1] (mg/L)

Pollutant / Sample type	No. of facilities		No. of samples		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[II]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	4	1	7	1	11.0	18.0	0.0	18.0	27.0	18.0	11.0	18.0	43.6	.....	81.9	.....
COD	4	2	7	4	234.7	360.0	0.0	180.0	630.0	740.0	180.0	270.0	1449.6	888.2	3635.9	1388.6
Nitrate + Nitrite Nitrogen	4	1	5	2	1.84	1.50	0.00	1.40	8.30	1.60	1.40	1.50	6.35	1.75	11.5	1.85
Total Kjeldahl Nitrogen	3	1	4	2	0.98	3.70	1.20	1.50	7.00	5.90	3.85	3.70	13.60	14.63	25.55	28.30
Oil & Grease	3	N/A	5	N/A	1.0	N/A	0.0	N/A	5.6	N/A	0.0	N/A	.....	N/A	.....	N/A
pH	5	N/A	13	N/A	N/A	N/A	4.6	N/A	8.2	N/A	7.8	N/A	9.7	N/A	10.7	N/A
Total Phosphorus	5	3	19	5	2.17	7.54	0.69	0.69	14.60	7.00	0.11	0.17	13.53	7.91	28.67	28.25
Total Suspended Solids	4	2	6	4	18113	580	0	330	100000	850	2135	570	350477	1158	4082086	1395

[1] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.

[II] Composite samples.

3. Options for Controlling Pollutants From Metal Mines

There are two options for reducing pollutants in storm water discharges; end-of-pipe treatment and implementing Best Management Practices to prevent and/or eliminate pollution. Discharges from mining operations are in some ways dissimilar to other types of industrial facilities. Mining facilities are often in remote locations and may operate only seasonally or intermittently, yet need year-round controls because significant materials remain exposed to precipitation when reclamation is not completed. These characteristics make resource intensive end-of-pipe management controls less desirable. A comprehensive storm water management program for a given plant may include controls from each of these categories. Development of comprehensive control strategies should be based on a consideration of site and facility plant characteristics.

a. End-of-Pipe Treatment. At many ore mining and dressing facilities, it may be appropriate to collect and treat the runoff from targeted areas of the facility. This approach was taken with 11 industrial subcategories within the ore mining and dressing industry, subject to national effluent limitation guidelines mill process wastewater and mine drainage. There are several areas where effluent limitation guidelines influence the permitting strategy for storm water discharges: whenever storm water and mill process wastewater and mine drainage combine, the storm water discharge is also subject to effluent limitation guidelines; to meet the numeric effluent limitation guidelines, most, if not all, facilities must collect and temporarily store onsite runoff from targeted areas of the plant; the effluent limitation guidelines do not apply to discharges whenever rainfall events, either chronic or catastrophic, cause an overflow of storage devices designed, constructed, and maintained to contain a 10-year, 24-hour storm; and most technology-based treatment standards, used for treating discharges subject to effluent limitation guidelines, are based on relatively simple technologies such as settling of solids, neutralization, and drum filtration.

For storm water discharges that are not covered by the effluent limitations guidelines, BMPs may be an appropriate means for limiting pollutant contributions. However, in cases of poor quality storm water discharges (e.g., low pH, high metals, etc.), treatment may be necessary to protect receiving waters.

b. Best Management Practices. Effective storm water management controls for limiting the offsite discharge of storm water pollutants from ore mining and dressing facilities are source reduction BMPs. Source reduction BMPs are methods by which discharges of contaminants are controlled with little or no required maintenance. Examples of these types of controls include source reduction diversion dikes, vegetative covers, and berms. Source reduction practices are typically (but not always) low in cost and relatively easy to implement. In some instances, more resource intensive treatment BMPs, including sedimentation ponds, may be necessary depending upon the type of discharge, types and concentrations of contaminants, and volume of flow.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, hydrogeology and the environmental setting of each facility, and volume and type of discharge generated. Each facility will be unique in that the source, type, and volume of contaminated storm water discharges will differ. In addition, the fate and transport of pollutants in these discharges will vary. The management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with mining activity.

The following four categories describe best management practice options for reducing pollutants in storm water discharges from ore mining and dressing facilities: discharge diversions; sediment and erosion control; capping of contaminated sources; treatment.

Because ore mining and dressing is largely a land disturbance activity, BMPs that minimize erosion and sedimentation will be most effective if installed at the inception of operations and maintained throughout active operations and reclamation of the site. From the construction of access and haul roads, to closure and reclamation activities, implementation of BMPs is often essential to minimizing long-term environmental impacts to an area.

Part 1 group application data indicates that few storm water BMPs have been implemented at sampling facilities. The group application process did not require a description of BMP locations, and did not require applicants to describe the number of identical BMPs implemented at each site. As a result, the effectiveness of BMPs, for storm water management, at these facilities cannot be evaluated.

Many BMPs were not listed by facilities because they have been implemented to treat waters subject to effluent limitation guidelines, and are not exclusively used for storm water management. For instance, 29 percent of the sampling subgroup reported using ponds for sediment control and collection. Since some facilities classified as SIC Code 10 are subject to effluent limitation guidelines, sedimentation ponds may be implemented at greater proportions than indicated in part 1 of the group applications.

Because BMPs described in the part 1 data are limited, EPA is providing an overview of supplementary BMPs for use at ore mining and dressing facilities. However, due to the site-specific nature of facilities within this sector, BMPs cited do not preclude the use of other viable BMP options. Table G–3 summarizes BMP options as they apply to land disturbance activities at ore mining and dressing facilities. Sources of BMP information include: "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990; "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices," EPA, September, 1992, (EPA 832–R–92–006); "Best Management Practices for Mining in Idaho," Idaho Department of Lands, November 1992; and "Erosion & Sediment Control Handbook," Goldman et al., McGraw-Hill Book Company, 1986.

TABLE G–3.—SUMMARY OF MINE AREAS AND APPLICABLE BEST MANAGEMENT PRACTICES

Land-disturbed area	Discharge diversions	Conveyance systems	Runoff dispersion	Sediment control & collection	Vegetation	Containment	Treatment
Haul Roads and Access Roads.	Dikes, Curbs, Berms.	Channels, Gutters, Culverts, Rolling Dips, Road Sloping, Roadway Water Deflectors.	Check Dams, Rock Outlet Protection, Level Spreaders, Stream Alteration, Drop Structures.	Gabions, Riprap, Native Rock Retaining Walls, Straw Bale Barriers, Sediment Traps/Catch Basins, Vegetated Buffer Strips.	Seeding, Willow Cutting Establishment.		
Pits/Quarries or Underground Mines.	Dikes, Curbs, Berms.	Channels, Gutters.	Serrated Slopes, Benched Slopes, Contouring, Stream Alteration.	Sediment Settling Ponds, Straw Bale Barrier, Siltation Berms.	Seeding	Plugging and Grouting.	Chemical/ Physical Treatment.
Overburden, Waste Rock and Raw Material Piles.	Dikes, Curbs, Berms.	Channels, Gutters.	Serrated Slopes, Benched Slopes, Contouring, Stream Alteration.	Plastic Matting, Plastic Netting, Erosion Control Blankets, Mulch-straw, Compaction, Sediment/ Settling Ponds, Silt Fences, Siltation Berms.	Topsoiling, Seedbed Preparation, Seeding.	Capping	Chemical/ Physical Treatment, Artificial Wetlands.
Reclamation	Dikes, Curbs, Berms.	Channels, Gutters.	Check Dams, Rock Outlet Protection, Level Spreaders, Serrated Slopes, Benched Slopes, Contouring, Drain Fields, Stream Alteration, Drop Structures.	Gabions, Riprap, and Native Rock Retaining Walls, Biotechnical Stabilization, Straw Bale Barriers, Sediment Traps/Catch Basins, Vegetative Buffer Strips, Silt Fences, Siltation Berms, Brush Sediment Barriers.	Topsoiling, Seedbed Preparation, Seeding, Willow Cutting Establishment.	Capping, Plugging and Grouting.	Chemical/ Physical Treatment, Wetlands.

Haul Roads and Access Roads—Placement of haul roads or access roads should occur as far as possible from natural drainage areas, lakes, ponds, wetlands or floodplains where soil will naturally be less stable for heavy vehicle traffic. If a haul road must be constructed near water, as little vegetation as possible should be removed from between the road and the waterway, as vegetation is a useful buffer against erosion and is an efficient sediment collection mechanism. The width and grade of haul or access roads should be minimal and should be designed to match natural contours of the area. Construction of haul roads should be supplemented by BMPs that divert runoff from road surfaces, minimize erosion, and direct flow to appropriate channels for discharge to treatment areas.

Pits or Quarries—Excavation of a pit or quarry must be accompanied by BMPs to minimize impacts to area surface waters. As discussed in construction of haul roads, as little vegetation as possible should be removed from these areas during excavation activities to minimize exposed soils. In addition, stream channels and other sources of water that may discharge into a pit or quarry should be diverted around that area to prevent contamination.

BMPs can be used to control total suspended solids levels in runoff from unvegetated areas. These can include sediment/settling ponds, check dams, silt fences, and straw bale barriers.

Overburden, Waste Rock, and Raw Material Piles—Overburden, topsoil, and waste rock, as well as raw material and intermediate and final product stockpiles should be located away from

surface waters and other sources of water, and from geologically unstable areas. If this is not practicable, surface water should be diverted around the piles. As many piles as possible should be revegetated, (even if only on a temporary basis.) At closure, remaining units should be reclaimed.

Reclamation Activities—When a mineral deposit is depleted and operations cease, a mine site must be reclaimed according to appropriate State or Federal standards. Closure activities typically include restabilization of any disturbed areas such as access or haul roads, pits or quarries, sedimentation ponds or work-out pits, and any remaining waste piles. Overburden and topsoil stockpiles may be used to fill in a pit or quarry (where practical.) Recontouring and revegetation should be performed to stabilize soils, and prevent erosion.

Major reclamation activities such as recontouring roads and filling in a pit or quarry can only be performed after operations have ceased. However, reclamation activities such as stabilization of banks, and reseeding and revegetation should be implemented in mined out portions, or inactive areas of a site as active mining moves to new areas.

EPA recognizes that quarries are frequently converted into reservoirs, or recreational areas, after the mineral deposit is depleted. However, this does not preclude the reclamation of disturbed areas above the quarry rim.

(1) Discharge Diversions. Discharge diversions provide the first line of defense in preventing the contamination of discharges, and subsequent contamination of receiving waters of the United States. Discharge diversions are temporary or permanent structures installed to divert flow, store flow, or limit storm water runon and runoff.

These diversion practices have several objectives. First, diversion structures can be designed to prevent otherwise uncontaminated (or less contaminated) water from crossing disturbed areas or areas containing significant amounts of contaminated materials, where contact may occur between runon and significant materials. These source reduction measures may be particularly effective for metal mining facilities to prevent runon of uncontaminated discharges from contacting exposed materials and/or reduce the flow across disturbed areas, thereby lessening the potential for erosion. Second, diversion structures can be used to collect or divert waters for later treatment, if necessary. The usefulness of these control measures are limited by such factors as the size of the area to be controlled and the type and nature of materials exposed and precipitation events.

Diversion dikes, curbs, and berms are temporary or permanent diversion structures that prevent runoff from passing beyond a certain point, and divert runoff away from its intended path. Dikes, curbs or berms may be used to surround and isolate areas of concern at metal mining sites, diverting flow around piles of overburden, waste rock, and storage areas, to minimize discharge contact with contaminated materials and to limit discharges of contaminated water from confined areas. The BMPs described below may be useful for storm water diversion at metal mining sites.

Channels or Gutters—Channels or gutters collect storm water runoff and direct its flow. Channels or gutters may act to divert runoff away from a potential source of contamination, but may also be used to channel runoff to a collection and/or treatment area including settling ponds, basins or work-out pits.

Open Top Box Culverts and Waterbars—These structures are temporary or permanent structures that divert water from a roadway surface. Open top box culverts may be used on steeply graded, unpaved roads in place of pipe culverts to divert surface runoff and flow from inside ditches onto the downhill slope of a road. These structures are typically made of wood and should periodically be monitored and repaired if necessary.

Rolling Dips and Road Sloping—Rolling dips and road sloping are permanent water diversion techniques installed using natural contours of the land during road construction. These BMPs prevent water accumulation on road surfaces and divert surface runoff toward road ditches, which then convey the storm water to ponds or other management areas.

Roadway Surface Water Deflector—A roadway surface water deflector is another technique to prevent accumulation of water on road surfaces. The structure uses a conveyor belt sandwiched between two pieces of treated wood and placed within the road to deflect water. This is a useful technique for steeply graded, unpaved roads.

Culverts—Culverts are permanent surface water diversion mechanisms used to convey water off or underneath a road. Made of corrugated metal, they must extend across the entire width of the road and beyond the fill slope. Additional erosion control mechanisms may need to be installed at the discharge end of the culvert.

Drainage systems are most effective when used in conjunction with runoff dispersion devices designed to slow the flow of water discharged from a site. These devices also aid storm water infiltration into the soil and flow attenuation. Some examples of velocity dissipation devices include check dams, rock outlet protection, level spreaders, and serrated and benched slopes.

Check Dams—Check dams are small temporary dams constructed across swales or drainage ditches to reduce the velocity of runoff flows, thereby reducing erosion and failure of the swale or ditch. This slowing reduces erosion and gullying in the channel and allows sediments to settle.

Rock Outlet Protection—Rock protection placed at the outlet end of culverts, channels, or ditches reduces the depth, velocity, and destructive energy of water such that the flow will not erode the downstream reach.

Level Spreaders—Level spreaders are outlets for dikes and diversions consisting of an excavated depression constructed at zero grade across a slope. Level spreaders diffuse storm water point sources and release it onto areas stabilized by existing vegetation.

Serrated Slopes and Benched Slopes—These runoff dispersion methods break up flow of runoff from a slope, decreasing its ability to erode. Serrated and benched slopes provide flat areas that allow water to infiltrate, and space for vegetation to grow and reinforce soils.

Contouring—Surface contouring is the establishment of a rough soil surface amenable to revegetation, through creating horizontal grooves, depressions, or steps that run with the contour of the land. Surface roughening aids in the establishment of vegetative cover by reducing runoff velocity and giving seed an opportunity to take hold and grow.

Drain Fields—Drain fields are used to prevent the accumulation of water and/or ground water at a site, by diverting infiltrating sources through gravity flow or pumping.

Stream Alteration—Altering or channelizing the path of a stream to bypass all or some disturbed areas on a site allows additional mining activities and avoids contamination of stream water by disturbed lands. This practice is complicated, however, by the need to restore the channel when mining operations end.

Drop Structures—Drop structures are large angular rocks placed in a V-shaped pattern to slow the velocity of storm water runoff. These structures are typically reinforced by logs or large rocks imbedded in the streambanks.

(2) Erosion and Sediment Controls. Erosion and sediment controls limit movement and retain sediments from being transported offsite. Several structural collection devices have been developed to remove sediment from runoff before it leaves the site. Several methods of removing sediment from site runoff involve diversion mechanisms previously discussed, supplemented by a trapping or storage device. Structural practices typically involve filtering diffuse storm water flows through temporary structures such as straw bale dikes, silt fences, brush barriers or vegetated areas.

Structural practices are typically low in cost. However, structural practices require periodic removal of sediment to remain functional. As such, they may not be appropriate for permanent use at inactive mines. However, these practices may be effectively used as temporary measures during active operation and/or prior to the final implementation of permanent measures.

(a) Structural Practices.

(i) Sediment/Settling Ponds—Sediment ponds function as sediment traps by containing runoff for long periods of time, allowing suspended solids to settle. These structures can achieve a high removal rate of sediment for both process wastewater and storm water discharges.

Discharge ponds may also be designed to act as surge ponds which are designed to contain storm surges and then completely drain in about 24 to 40 hours, and remain dry during times of no rainfall. They can provide pollutant removal efficiencies that are similar to those of detention ponds.[45]

(ii) Gabions, Riprap, and Native Rock Retaining Walls—These BMPs are all forms of slope stabilization. Gabions consist of rocks (riprap) contained by rectangular wire boxes or baskets for use as permanent erosion control structures. Riprap consists of loose rocks placed along embankments to prevent erosion.

(iii) Biotechnical Stabilization—Biotechnical stabilization uses live brush imbedded in the soils of a steep slope to prevent erosion. This method relies on the premise that the imbedded vegetation will eventually root and help stabilize the slope.

(iv) Straw Bale Barrier—Straw bales may be used as temporary berms, barriers, or diversions, capturing sediments, filtering runoff. When installed and maintained properly, these barriers remove approximately 67 percent of the sediment load.[46]

(v) Sediment Traps or Catch Basins—These temporary or permanent structures are useful for catching and storing sediment laden storm water runoff and are particularly useful during construction activities to contain runoff. The effectiveness of these BMPs is better in smaller drainage basin areas. Sediment traps are less than 50 percent effective in removing sediment from storm water runoff.[47]

(vi) Vegetated Buffer Strips—The installation of vegetated buffer strips will reduce runoff and prevent erosion at a removal efficiency rate of 75 to 99 percent depending upon the ground cover.[48]

(vii) Silt Fence/Filter Fence—A low fence made of filter fabric, wire and steel posts, should be used on small ephemeral drainage areas where storm water collects or leaves a mine site. Silt fences remove 97 percent of the sediment load and are easier to maintain and remove without creating lasting impacts to the environment.[49]

(viii) Siltation Berms—Siltation berms are typically placed on the downslope side of a disturbed area to act as an impermeable barrier for the capture and retention of sediments in surface water runoff. Plastic sheeting is typically used to cover the berm. The berm and the plastic sheeting may require periodic maintenance and repair.

(ix) Brush Sediment Barriers—Brush barriers are temporary sediment barriers composed of tree limbs, weeds, vines, root mat, soil, rock and other cleared materials placed at the toe of a slope. A brush barrier is effective only for small drainage areas, usually less than ¼ acre, where the slope is minimal.

(b) Stabilization—Stabilization practices involve establishing a sustainable ground cover by permanent seeding, mulching, sodding, and other such practices. A vegetative cover reduces the potential for erosion of a site by: absorbing the kinetic energy of raindrops which would otherwise impact soil; intercepting water so it can infiltrate into the ground instead of running off and carrying contaminated discharges; and by slowing the velocity of runoff to promote onsite deposition of sediment. Stabilization controls are often the most important measures taken to prevent offsite sediment movement, and can provide a six-fold reduction in the discharge of suspended sediment levels.[50] Permanent seeding has been found to be 99 percent effective in controlling erosion for disturbed land areas.[51] Many states require that topsoil be segregated from other overburden for use during reclamation. While stored, topsoil stockpiles should be vegetated. This temporary form of vegetation can often be used for other piles of stored materials and for intermittent/seasonal operations.

Typically, the costs of stabilization controls are low relative to other discharge mitigation practices. Given the limited capacity to accept large volumes of runoff, and potential erosion problems associated with large concentrated flows, stabilization controls should typically be used in combination with other management practices. These measures have been documented as particularly appropriate for mining sites.

(i) Topsoiling, Seedbed Preparation—The addition of a layer of topsoil or plant growth material provides an improved soil medium for plant growth. Seedbed preparation may include the addition of topsoil ingredients to be mixed in with soils used for seedbed preparation.

(ii) Broadcast Seeding and Drill Seeding—Seeding and vegetative planting are methods used to revegetate an area. Broadcast seeding spreads seeds uniformly, by hand or machine, to steep sloped or rocky areas, flat surfaces, and areas with limited access.

(iii) Willow Cutting Establishment—Willow cutting establishment describes a method of soil stabilization useful for stream banks and other areas located adjacent to water. Similar to biotechnical stabilization, willow cuttings are used to promote growth in an area needing stabilization. Willow cuttings are typically used to reinforce a streambank or other moist area.

(iv) Plastic Matting, Plastic Netting, and Erosion Control Blankets—These BMPs are used to protect bare soils to control dust and erosion. Mats and blankets help to promote vegetative growth by maintaining moisture and heat within the soil.

[45] "Urban Targeting and BMP Selection," EPA, Region V, November 1990.

[46] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–14.

[47] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–26.

[48] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–7.

[49] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–15.

[50] "Performance of Current Sediment Control Measures at Maryland Construction Sites," January 1990, Metropolitan Washington Council of Governments, page X.

[51] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–4.

(v) Mulch-straw or Wood Chips—Mulches and wood chips are useful temporary covers for bare or seeded soils, with an erosion control effectiveness rating of 75 to 98 percent.[52] Like matting, mulch-straw or wood chips help soils retain moisture and warmth to promote vegetative growth.

(vi) Compaction—Soil compaction using a roller or other heavy equipment increases soil "strength" by increasing its density. More dense soil is less prone to erosion and long-term soil settlement.

(3) Capping. In some cases, the elimination of a pollution source through capping contaminant sources may be the most cost effective control measure for discharges from inactive ore mining and dressing facilities. Depending on the type of management practices chosen the cost to eliminate the pollutant source may be very high. Once completed, however, maintenance costs will range from low to nonexistent.

Capping or sealing of waste materials is designed to prevent infiltration, as well as to limit contact between discharges and potential sources of contamination. Ultimately, capping should reduce or eliminate the contaminants in discharges. In addition, by reducing infiltration, the potential for seepage and leachate generation may also be lessened.

EPA has identified a wide variety of best management practices (BMPs) that may be used to mitigate discharges of contaminants at active and inactive metal mines. Many of the practices focus on sediment and erosion control and are similar to BMPs used in the construction industry. These controls to prevent erosion and control sedimentation are the most effective if they are installed at the inception of operations and maintained throughout active operations and reclamation of the site. For more details on the use and implementation of these practices the reader is encouraged to obtain a copy of one or more of the many good sediment and erosion control books available on the market.[53] In some cases (e.g., low pH and/or high metals concentrations), BMPs, and sediment and erosion controls may not be adequate to produce an acceptable quality of storm water discharge. Under those circumstances additional physical or chemical treatment systems may be necessary to protect the receiving waters.

(4) Treatment. Treatment practices are those methods of control which normally are thought of as being applied at the "end of the pipe" to reduce the concentration of pollutants in water before it is discharged. This is in contrast to many BMPs, where the emphasis is on keeping the water from becoming contaminated. Treatment practices may be required where flows are currently being affected by exposed materials and other BMPs are insufficient to meet discharge goals. These practices are usually the most resource intensive, as they often require significant construction costs, and monitoring and maintenance on a frequent and regular basis. Treatment options may range from high maintenance controls to low maintenance controls. High maintenance treatment techniques require manpower to operate and maintain the BMP. Low maintenance cost techniques have initial capital costs but operate with low long-term maintenance after being implemented. At a few sites, treatment measures other than high maintenance measures may be appropriate to address specific pollutants.

(a) Chemical/Physical Treatment—An example of a high maintenance technology that is found at many active metal mining facilities is chemical/physical treatment. The most common type of chemical/physical treatment involves the addition of lime or other such caustics to neutralize the discharges and/or precipitate metals. Metals may be removed from wastewater by raising the pH of the wastewater to precipitate them out as hydroxides.

(b) Oil/Water Separators—Another example of a high maintenance treatment technology is an oil/water separator. An American Petroleum Institute (API) oil/water separator or similar type of treatment device which acts to skim oil and settle sludge can be used to remove oil from water.

(c) Artificial Wetlands—This type of BMP system can be an effective system for improving water quality either alone or in conjunction with other treatment practices. Wetland processes are able to filter sediments, and absorb and retain chemical and heavy metal pollutants through biological degradation, transformation, and plant uptake.

Natural wetlands should not be considered as part of the treatment system because they are considered to be waters of the United States. The necessary controls, or BMPs, must be provided prior to discharging the storm water runoff to natural wetlands or other receiving waters.

In summary, a wide variety of BMPs are available for use at active and inactive metallic mining and milling facilities. These measures range from simple low cost, low maintenance source reduction practices such as diversion structures to high cost, maintenance intensive practices such as wetlands treatment. Clearly, the selection of a practice or group of practices will be site-specific depending on conditions and potential impacts as well as the resources available at each site. A specific best available technology (or technologies) cannot be determined because of the differences between sites and the quantities and characteristics of their discharges.

(4) Discharges Covered Under This Section

Coverage under this section of today's permit is limited to all storm water discharges from inactive metal mining facilities and storm water discharges from the following areas of active metal mining facilities: topsoil piles; offsite haul/access roads if off active area; onsite haul roads if not constructed of waste rock or spent ore, and mine water is not used for dust control; runoff from tailings dams/dikes when not constructed of waste rock/tailings and no process fluids are present; concentration building, if no contact with material piles; mill site, if no contact with material piles; chemical storage area; docking facility, if no excessive contact with waste product; explosive storage; reclaimed areas released from reclamation bonds prior to December 17, 1990; and partially/inadequately reclaimed areas or areas not released from reclamation bonds.

Storm water discharges, or mine drainage discharges, which are subject to existing effluent limitations guidelines addressing storm water (or a combination of storm water and non-storm water) cannot be covered by this section. The effluent limitations guidelines that apply to active metal mining operations are contained in 40 CFR Part 440, Ore Mining and Dressing Point Source Category. These effluent guidelines include specific numeric limitations for mine drainage and discharges from mills, or "no discharge" requirements. Table G–4 identifies the discharge and source of the discharge from active metal mining facilities, that are subject to process wastewater limitations, mine drainage limitations, and storm water reporting requirements. Storm water discharges that are eligible

[52] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990.

[53] "Best Management Practices for Mining in Idaho," Idaho Department of State Lands, November 1992; "Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices," EPA, September 1992 (EPA 832–R–92–005); and "Erosion & Sediment Control Handbook," Goldman et al., McGraw-Hill Book Company, 1986.

for coverage under today's permit are identified under the coverage section of the permit. At all metal mining facilities, coverage under this section does not include adit drainage or contaminated springs or seeps. Table G–4 clarifies the applicability of the Effluent Limitations Guidelines found in 40 CFR Part 440. This table does not expand or redefine these Effluent Limitations Guidelines.

TABLE G–4.—APPLICABILITY OF 40 CFR PART 440 EFFLUENT LIMITATIONS GUIDELINES TO STORM WATER RUNOFF FROM ACTIVE ORE (METAL) MINING AND DRESSING SITES

Discharge/source of discharge	Applicable ELG, if any (see key)	Note/comment
Land application area runoff	MD	PW—if Process fluids present.
Crusher area	MD	PW—if Process fluids present.
Piles (seepage and/or runoff):		
Spent ore	MD	PW—if Process fluids present.
Surge/Ore	MD	PW—if Process fluids present.
Waste rock/overburden	MD	
Topsoil	SW	
Drainage:		
Pit drainage (unpumped)	MD	
Pit drainage (removed by pumping)	MD	
Mine water from underground mines (unpumped), adit discharges.	MD	
Mine water from underground mines (pumped)	MD	
Seeps/French drains	MD	PW—if Process fluids present.
Roads constructed of waste rock or spent ore:		
Onsite haul roads	MD	
Offsite haul/access roads	SW	(if off Active Area).
Roads not constructed of waste rock or spent ore:		
Onsite haul roads	SW	MD—if dust control with MD water.
Offsite haul/access roads	SW	
Milling/concentrating:		
Tailings impoundment/pile	PW	
Runoff from tailings dams/dikes when constructed of waste rock/tailings.	MD	PW—if Process fluids present.
Runoff from tailings dams/dikes when not constructed of waste rock/tailings.	SW	PW—if Process fluids present.
Heap leach pile runoff/seepage	PW	
Pregnant pond (barren and surge ponds also)	PW	
Polishing pond	PW	
Concentration building	SW	If storm water only, and no contact with piles.
Concentrate pile (product storage)	PW	
Mill site	SW	Same as concentration bldg.
Ancillary areas:		
Office/administrative building and housing	UC	Unless mixed with SW from industrial area, then SW.
Chemical storage area	SW	
Docking facility	SW	Excessive contact with waste product could constitute MD.
Explosive storage	SW	
Fuel storage (oil tanks/coal piles)	SW	
Vehicle/equipment maintenance area/building	SW	
Parking areas	SW	UC if only employee and visitor type parking.
Power plant	SW	
Truck wash area	SW	Excessive contact with waste product could constitute MD.
Reclamation-related areas:		
Any disturbed area (unreclaimed)	MD	SW if inactive area.
Reclaimed areas released from reclamation bonds after Dec. 17 1990.	UC	
Reclaimed areas released from reclamation bonds prior to Dec. 17 1990.	SW	
Partially/inadequately reclaimed areas or areas not released from reclamation bond.	SW	

KEY: UC—Unclassified; Not Subject to Storm Water Program or 40 CFR Part 440 Effluent Limitations Guidelines (ELG); MD—Subject to 40 CFR Part 440 ELG for mine drainage; PW—Subject to 40 CFR Part 440 ELG for mill discharge or process (including zero discharge ELG); SW—Storm water runoff from these sources are subject to the Storm Water Program, but are not subject to 40 CFR 440 ELG unless mixed with discharges subject to the 440 CFR 440 ELG that are not regulated by another permit prior to mixing. Non-storm water discharges from these sources are subject to NPDES permitting and may be subject to the effluent limitation guidelines under 40 CFR 440.

Temporarily inactive (e.g., winter closure, and portions of active mines that are no longer being mined, and where reclamation has not begun) mines will be permitted as an active mine. The following definitions apply to this section and are intended to provide clarification as to what is considered active, inactive, and temporarily inactive:

The following definitions are only for this section of today's permit and are not intended to supersede the definitions of active and inactive mining facilities established by 40 CFR 122.26(b)(14)(iii):

"Active Metal Mining Facility" is a place where work or other related

activity to the extraction, removal, or recovery of metal ore is being conducted. With respect to surface mines, an "active metal mining facility" does not include any area of land on or in which grading has been completed to return the earth to a desired contour and reclamation work has begun.

"Inactive Metal Mining Facility" means a site or portion of a site where metal mining and/or milling activities occurred in the past but is not an active metal mining facility, as defined in this permit and that portion of the facility does not have an active mining permit issued by the applicable (federal or state) government agency that authorizes mining at the site.

"Temporarily Inactive Metal Mining Facility" means a site or portion of a site where metal mining and/or milling activities occurred in the past, but currently are not being actively undertaken, and the facility has an active mining permit issued by the applicable (federal or state) governmental agency that authorizes mining at the site.

Operators of storm water discharges from mining related industrial activities such as vehicle maintenance, or power plants should refer to the appropriate sections of today's permit for specific guidance or requirements. Clearing, grading, and excavation activity that disturbs 5 or more acres during the exploration or preparation for beginning active mining operations cannot be covered by this section. Coverage for this type of pre-mining activity can be covered by EPA's general permit for storm water discharges from construction activities or an applicable State-issued permit. Land disturbance activities associated with the active mining operations such as expansion of existing pits, can be covered by this section.

5. Storm Water Pollution Prevention Plan Requirements

All facilities subject to this section must prepare and implement a storm water pollution prevention plan. The establishment of a pollution prevention plan requirement reflects EPA's decision to allow operators of ore mining and dressing facilities to utilize BMPs as the BAT/BCT level of control for the storm water discharges covered by this section. The requirements included in pollution prevention plans provide a flexible framework for the development and implementation of site specific controls to minimize pollutants in storm water discharges. This approach is consistent with the approach used in the baseline general permits finalized on September 9, 1992 (57 FR 41236).

Pollution prevention can be an effective approach for controlling contaminated storm water discharges from metal mining facilities. Pollution prevention plans allow the operator of a facility to select BMPs based on site-specific considerations such as: facility size; climate; geographic location; hydrogeology; the environmental setting of each facility; and volume and type of discharge generated. This flexibility is necessary because each facility will be unique in that the source, type, and volume of contaminated surface water discharges will differ from site to site. In addition, EPA believes that the adoption of BMPs reduces environmental impacts by minimizing land disturbed areas susceptible to storm water runoff. Early implementation and maintenance of BMPs facilitates ongoing reclamation activities, reducing final reclamation costs associated with site closure. BMPs are also effective at temporarily or permanently inactive mine sites.

There are two major objectives to a pollution prevention plan: 1) to identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from a facility; and 2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity from a facility.

Specific requirements for a pollution prevention plan for ore mining and dressing facilities are described below. These requirements must be implemented in addition to the baseline pollution prevention plan provisions discussed previously.

a. Active and Temporarily Inactive Metal Mining Facilities.

(1) Description of Mining Activities. The storm water pollution prevention plan shall provide a narrative description of the mining and associated activities taking place at the site which affect or may affect storm water runoff intended to be covered by this section. The narrative description shall report the total acreage within the mine site, an estimate of the acreage of land currently disturbed, and an estimate of the total acreage that will be disturbed throughout the life of the mine. A general description of the mining site relative to major transportation routes and communities shall also be provided.

(2) Description of Potential Pollution Sources. Each storm water pollution prevention plan must describe activities, materials, and physical features of the facility that may contribute to storm water runoff or, during periods of dry weather, result in dry weather flows and mine pumpout. This assessment of storm water pollution will support subsequent efforts to identify and set priorities for necessary changes in materials, materials management practices, or site features, as well as aid in the selection of appropriate structural and nonstructural control techniques. In addition to the baseline general requirements storm water pollution prevention plans must describe the following elements:

(a) Drainage—The plan must contain a map of the site that shows the pattern of storm water drainage, structural features that control pollutants in storm water runoff[54] and process wastewater discharges (including mine drainage), surface water bodies (including wetlands), places where significant materials[55] are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. The map also must show areas where the following activities take place: fueling, vehicle and equipment maintenance and/or cleaning, loading and unloading, material storage (including tanks or other vessels used for liquid or waste storage), material processing, waste disposal, haul roads, access roads, and rail spurs. The site map must also indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls (e.g. storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

(b) Inventory of Exposed Materials—Facility operators are required to carefully conduct an inspection of the site and related records to identify significant materials that are or may be exposed to storm water. The inventory

[54] Nonstructural features such as grass swales and vegetative buffer strips also should be shown.

[55] Significant materials include, "* * * but [are] not limited to: raw materials, fuels, materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; * * * hazardous substances designated under section 101(14) of CERCLA; any chemical facilities required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharge" (40 CFR 122.26(b)(12)). Significant materials commonly found at mining facilities include: overburden; raw materials; waste rock piles; tailings; petroleum based products; solvents and detergents; heap leach pads; tailings piles/ponds, both proposed and existing; and manufactured products, waste materials or by-products used or created by the facility.

must address materials that within 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit have been handled, stored, processed, treated, or disposed of in a manner to allow exposure to storm water. Findings of the inventory must be documented in detail in the pollution prevention plan. At a minimum, the plan must describe the method and location of onsite storage or disposal; practices used to minimize contact of materials with rainfall and runoff; existing structural and nonstructural controls that reduce pollutants in storm water runoff; existing structural controls that limit process wastewater discharges; and any treatment the runoff receives before it is discharged to surface waters or a separate storm sewer system. The description must be updated whenever there is a significant change in the types or amounts of materials, or material management practices, that may affect the exposure of materials to storm water.

In addition, any existing ore or waste rock/overburden characterization data, including results of testing for acid rock generation potential must be included in the pollution prevention plan. The intent is to get an idea of the pollutants (e.g., heavy metals) that may be present in the ore and waste rock/overburden.

(3) Measures and Controls. Following completion of the source identification and assessment phase, the permittee must evaluate, select, and describe the pollution prevention measures, best management practices (BMPs), and other controls that will be implemented at the facility. The permittee must assess the applicability of the following BMPs for their site: discharge diversions, drainage/storm water conveyance systems, runoff dispersions, sediment control and collection mechanisms, vegetation/soil stabilization, capping of contaminated sources, and treatment of storm water discharges. In addition, BMPs include processes, procedures, schedules of activities, prohibitions on practices, and other management practices that prevent or reduce the discharge of pollutants in storm water runoff.

The pollution prevention plan must discuss the reasons each selected control or practice is appropriate for the facility and how each will address the potential sources of storm water pollution. The plan also must include a schedule specifying the time or times during which each control or practice will be implemented. In addition, the plan should discuss ways in which the controls and practices relate to one another and, when taken as a whole, produce an integrated and consistent approach for preventing or controlling potential storm water contamination problems.

Under the inspection requirements of the pollution prevention plan, operators of active facilities are required to conduct monthly visual inspections of BMPs and designated equipment and mine areas. Owner/operators of temporarily inactive mining sites are required to conduct quarterly inspections. If weather conditions make the mine site inaccessible, the quarterly inspection will not be required. Active mining sites have frequent inspection periods because members of the pollution prevention team will be onsite, and the fact that they are active means there is a greater potential for pollution. The inspections shall include: (1) an assessment of the integrity of storm water discharge diversions, conveyance systems, sediment control and collection systems, and containment structures; (2) visual inspections of vegetative BMPs, serrated slopes, and benched slopes to determine if soil erosion has occurred; and (3) visual inspections of material handling and storage areas and other potential sources of pollution for evidence of actual or potential pollutant discharges of contaminated storm water.

Under the employee training requirements of the pollution prevention plan, facility operators are required to conduct employee training programs at least annually. The intent of this frequency is to provide a reminder to the employees of the requirements of the storm water pollution prevention plan.

(4) Non-storm Water Discharges. Each pollution prevention plan must include a certification, signed by an authorized individual, that discharges from the site have been tested or evaluated for the presence of non-storm water discharges, including discharges that are subject to 40 CFR Part 440. The certification must describe possible significant sources of non-storm water, the results of any test and/or evaluation conducted to detect such discharges, the test method or evaluation criteria used, the dates on which tests or evaluations were performed, and the onsite drainage points directly observed during the test or evaluation. Pollution prevention plans must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water discharge.

Under the non-storm water discharge section of the pollution prevention plan, EPA will allow non-storm water discharges that mix with storm water under this section provided that the plan includes a certification that any non-storm water discharge which mixes with storm water is subject to a separate NPDES permit that applies applicable effluent limitations prior to the mixing of non-storm water and storm water. In such cases, the certification shall identify the non-storm water discharge(s), the applicable NPDES permit(s), the effluent limitations placed on the non-storm water discharge by the NPDES permit(s), and the point(s) at which the limitations are applied. In addition, Part III.A.2 of today's permit discusses non-storm water discharges that may be eligible for coverage under the permit.

b. Inactive Metal Mining Facilities

(1) Pollution Prevention Team. The storm water pollution prevention plan must identify specific individual(s) who are responsible for the development, implementation, maintenance, and revision of the pollution prevention plan. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the storm water pollution prevention plan at the inactive facility. Members of the pollution prevention team do not have to be permanently located at the inactive facility, such as the requirement for any active facility.

(2) Description of Mining Activities. The storm water pollution prevention plan shall provide a narrative description of the mining and associated activities that took place at the site. The narrative description shall report the approximate dates of operation, total acreage within the mine site and/or processing site, an estimate of the total acreage disturbed, and the activities (reclamation, etc.) that are currently taking place at the facility. A general description of the mining site relative to major transportation routes and communities shall also be provided.

(3) Description of Potential Pollution Sources. Each storm water pollution prevention plan must describe activities, materials, and physical features of the facility that may contribute to storm water runoff or, during periods of dry weather, result in dry weather flows. This assessment of storm water pollution will support subsequent efforts to identify and set priorities for necessary changes in materials, materials management practices, or site features, as well as aid in the selection of appropriate structural and nonstructural control techniques. In addition to the baseline general requirements storm water pollution prevention plans must describe the following elements:

(3) Drainage—The plan must contain a map of the site that shows the pattern of storm water drainage, structural features that control pollutants in storm water runoff[56] and process wastewater discharges (including mine drainage), surface water bodies (including wetlands), places where significant materials[57] are exposed to rainfall and runoff. The map also must show the location of the following: any remaining equipment storage, fueling, and maintenance areas; areas used for outdoor manufacturing, storage, or disposal of materials; the boundaries of former mining and milling sites; the location of each storm water outfall and an outline of the portions of the drainage area that are within the facility boundaries; tailings piles and ponds; mine drainage or any other process water discharge point; and an estimate of the direction of flow. In addition, the site map must also indicate the types of discharges contained in the drainage areas of the outfalls (e.g., storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

(b) Inventory of Exposed Materials—The storm water pollution prevention plan shall include, for each outfall, an inventory and narrative description of any significant materials that may still be at the site. The description and locations of the significant materials should be consistent with those shown on the site map. Findings of the inventory must be documented in detail in the pollution prevention plan. At a minimum, the plan must describe the method and location of onsite storage or disposal; practices used to minimize contact of materials with rainfall and runoff; existing structural and nonstructural controls that reduce pollutants in storm water runoff; existing structural controls that limit process wastewater discharges; and any treatment the runoff receives before it is discharged to surface waters or a separate storm sewer system.

(c) Risk Identification and Summary of Potential Pollutant Sources—The description of potential pollution sources culminates in a narrative assessment of the risk potential that sources of pollution pose to storm water quality. This assessment should clearly point to activities, materials, and physical features of the facility that have a reasonable potential to contribute significant amounts of pollutants to storm water. The assessment must list any significant pollution sources at the site and identify the pollutant parameter or parameters (i.e., total suspended solids, arsenic, etc.) associated with each source.

(4) Measures and Controls. Following completion of the source identification and assessment phase, the permittee must evaluate, select, and describe the pollution prevention measures, best management practices (BMPs), and other controls that will be implemented at the facility. The permittee must assess the applicability of the following BMPs for their site: discharge diversions, drainage/storm water conveyance systems, runoff dispersions, sediment control and collection mechanisms, vegetation/soil stabilization, capping of contaminated sources, and treatment of storm water discharges. In addition, BMPs include processes, procedures, schedules of activities, prohibitions on practices, and other management practices that prevent or reduce the discharge of pollutants in storm water runoff. EPA recognizes that inactive mine sites and abandoned mine sites will most likely require different storm water controls because the sources and types of contamination may vary. EPA notes that inactive facilities are not required to conduct inspections such as those described in Part XI.G.3.a.(4)(d) of the permit for active and temporarily inactive facilities. Inactive sites must, however, conduct comprehensive site compliance evaluations as discussed in paragraph (5) below.

The pollution prevention plan must discuss the reasons each selected control or practice is appropriate for the facility and how each will address the potential sources of storm water pollution. The plan also must include a schedule specifying the time or times during which each control or practice will be implemented. In addition, the plan should discuss ways in which the controls and practices relate to one another and, when taken as a whole, produce an integrated and consistent approach for preventing or controlling potential storm water contamination problems.

(5) Comprehensive Site Compliance Evaluation. Where annual site compliance evaluations are shown in the plan to be impractical for inactive mining sites due to the remote location and inaccessibility of the site, site evaluations required under this part shall be conducted at appropriate intervals specified in the plan, but, in no case less than once in 3 years.

6. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. EPA believes that active copper ore mining facilities may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan and to characterize the discharge for potential environmental impacts, the permit requires active copper ore mining and dressing facilities to collect and analyze samples of their storm water discharges for the pollutants listed in Table G–5. The pollutants listed in Table G–5 were found to be above levels of concern for a significant portion of active copper ore mining and dressing facilities that submitted quantitative data in the group application process. Because these pollutants have been reported at levels of concern from active copper ore mining and dressing facilities, EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

At a minimum, storm water discharges from active metal mining facilities must be monitored quarterly during the second year of permit coverage. Samples must be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Table G–5. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

[56] Nonstructural features such as grass swales and vegetative buffer strips also should be shown.

[57] Significant materials include, "* * * but [are] not limited to: raw materials, fuels, materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; * * * hazardous substances designated under section 101(14) of CERCLA; any chemical facilities required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharge" (40 CFR 122.26(b)(12)). Significant materials commonly found at mining facilities include: overburden; raw materials; waste rock piles; tailings; petroleum based products; solvents and detergents; heap leach pads; tailings piles/ponds, both proposed and existing; and manufactured products, waste materials or by-products used or created by the facility.

TABLE G–5.—INDUSTRY MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Chemical Oxygen Demand (COD)	120 mg/L
Total Suspended Solids (TSS)	100 mg/L
Nitrate plus Nitrite Nitrogen	0.68 mg/L

If the average concentration for a parameter is less than or equal to the value listed in Table G–5, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Table G–5, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit.

TABLE G–6.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table G–5, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table G–5, then no further sampling is required for that parameter.
4th Year of Permit Coverage.	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table G–5. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

The monitoring cut off concentrations listed in Table G–5 are not numerical effluent limitations. These values represent a level of pollutant discharge which facilities may achieve through the implementation of pollution prevention plans. At least half of the facilities which submitted Part 2 data, reported concentrations greater than or equal to the values listed in Table G–5. Facilities that achieve average discharge concentrations which are less than or equal to the values in Table G–5 are not relieved from the pollution prevention plan requirements or any other requirements of the permit.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of the monitoring reports required under paragraph *c* below, under penalty of law, signed in accordance with Part VII.G. of the permit (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity, that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*b*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. For facilities conducting monitoring beyond the minimum quarterly requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding

measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one such outfall and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

F. Visual Examination of Storm Water Quality. Metal mining facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination of storm water quality must be conducted at least once in each of the following 3-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(2) Visual examination reports must be maintained onsite in the storm water pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

7. Numeric Effluent Limitations.

There are no numeric effluent limitations beyond those described in Part VI.B. of this permit.

H. Storm Water Discharges Associated With Industrial Activity From Coal Mines and Coal Mining-Related Facilities

1. Discharges Covered Under This Section

On November 16, 1990 (55 FR 47990), EPA promulgated the regulatory definition of "storm water associated with industrial activity." This definition includes point source discharges of storm water from eleven major categories of facilities, including: "* * * (iii) facilities classified as Standard Industrial Classification (SIC) codes 10 through 14 including active or

inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of noncoal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or storm water contaminated by contact with any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations."

This section only covers storm water discharges associated with industrial activities from inactive[58] coal mines and from access roads, haul roads, and rail lines at active coal mines. Coal mines and coal mining-related facilities subject to requirements under this section include the following types of operations: bituminous coal and lignite surface mining (SIC 1221); bituminous coal underground mining (SIC 1222); anthracite mining (SIC 1231); and coal mining services (SIC 1241).

Storm water discharges authorized by this section include storm water discharges at inactive coal mines where precipitation and storm water runon come into contact with significant materials including, but not limited to, raw materials, waste products, and by-products, overburden, and stored materials. This section also authorizes storm water discharges from haul roads, access roads, and rail lines used or traveled by carriers of raw materials, manufactured products, waste materials, or by-products created by active coal mining facilities. The following activities are covered under this section:

Haul Roads—Nonpublic roads on which coal or coal refuse is conveyed

Access Roads—Nonpublic roads providing light vehicular traffic within the facility property and to public roadways

Railroad Spurs, Sidings, and Internal Haulage Lines—Rail lines used for hauling coal within the facility property and to offsite commercial railroad lines or loading areas

Conveyor Belts, Chutes, and Aerial Tramway Haulage Areas—Areas under and around coal or refuse conveyor areas, including transfer stations

Equipment Storage and Maintenance Yards

Coal Handling Buildings and Structures

Inactive Coal Mines and Related Areas—Abandoned and other inactive mines, refuse disposal sites and other mining-related areas. This includes abandoned mine sites being reclaimed under Title IV of the Surface Mining Control and Reclamation Act. Not covered by this section are discharges from sites, or parts of sites, which are determined to cause or contribute to water quality standards violations.

This section does not cover any discharge subject to effluent limitation guidelines. Discharges from active facilities and those under reclamation are subject to NPDES permits and require treatment to meet specific effluent guideline limits as specified in 40 CFR Part 434 for pH, iron, manganese, suspended solids, and settleable solids. Storm water that does not come into contact with any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the operation are not subject to permitting under this section according to Section 402(l)(2) of the Clean Water Act.

This section also does not cover storm water discharges associated with industrial activity from inactive coal mines located on Federal lands, unless an operator can be identified. These discharges are not eligible because they are more appropriately covered under an NPDES permit currently being developed.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

Coal is a black, primarily organic substance formed from compressed layers of decaying organic matter millions of years ago.[59] Factors such as the fixed carbon content, volatile matter fraction, and heating value, determine whether coal is classified as lignite, sub-bituminous, bituminous, or anthracite. The coal mining and related facilities industry extracts and processes coal. There are two methods of coal mining: surface mining and underground mining. Surface mining is a method utilized when the coal is close to the earth's surface and it is economically viable to remove and store the overburden, which can later be used for reclamation. Underground mining occurs when coal is too deep to be surface mined or environmental restrictions prohibit surface mining.

Coal preparation activities increase the value of coal by removing impurities through size reduction, screening, gravity separation, dewatering, and drying. After this step, coal is ready to be shipped for further processing. The impurities, including shales, clays, low reject coal, and possibly some acidic materials, are then conveyed to refuse disposal facilities.

These mining methods and coal preparation activities occur during the active phase of mining and are not authorized by this section nor are they included in the storm water regulation. Most areas at active mine sites are covered by the Surface Mining Control and Reclamation Act (SMCRA). Discharges from these areas are considered process wastewaters and are covered under a separate NPDES permit. Today's permit only addresses storm water discharges from coal mines and related areas that are not already subject to effluent limitation guidelines under 40 CFR Part 434. Storm water discharges not subject to the effluent limitation guidelines may include discharges from the following areas:

a. Access Roads, Haul Roads, and Rail Lines. Access roads, haul roads, and rail lines are used for the transportation of coal, refuse (waste materials, old equipment, etc.), and overburden away from the mine workings. To build access and haul roads, common land disturbing activities such as vegetation clearing and soil grading are necessary. Refuse coal and overburden may be used as a road base material. Road building activities increase the potential for the offsite discharge of sediment in storm water runoff. In addition, coal, overburden, and refuse materials may be spilled during loading and unloading operations and during the transport of such materials along access roads, haul roads, and rail spurs.

b. Inactive Mine Sites. Although industrial processes have ended at inactive mine sites, the significant materials associated with those

[58] Inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator.

[59] "Development Document for Final Effluent Limitations Guideline, New Source Performance Standards, and Pretreatment Standards for the Coal Mining Point Source Category." EPA. 1982.

industrial processes may remain at the site and contaminate storm water discharges. The areas at inactive surface or underground coal mines which are included in the storm water regulation include former locations of: conveyor belts, chutes, and aerial tramways; equipment storage and maintenance yards; coal preparation plants; and coal handling buildings and storage areas.

Inactive mine sites are regulated because significant materials remain onsite. The significant materials include, but are not limited to: coal piles, including coal refuse piles; used and old equipment, including boneyards; overburden; waste disposal sites; and waste materials. In addition, in certain areas where machinery has been intensively used or abandoned, waste lubricating fluids, solvents, and contaminated soils may be present. These materials are typically present outdoors and are exposed to storm water discharges.

2. Pollutants Found in Storm Water Discharges

Impacts caused by storm water discharges from active haul roads, access roads and rail lines and inactive coal mine and coal mining-related facilities will vary. Several factors influence to what extent significant materials from coal mines and coal mining-related facilities may affect water quality. Such factors include: geographic location; hydrogeology; the type of coal extracted; the mineralogy of the extracted resource and the surrounding rock; how the coal was extracted; the type of industrial activities occurring onsite; the size of the operation; and type, duration, and intensity of precipitation events. Each of these, and other, factors will interact to influence the quantity and quality of storm water runoff. For example, overburden may be a significant source of pollutants at some facilities, while storage areas are a primary source at others. In addition, sources of pollutants other than storm water, such as illicit connections,[60] spills, and other improperly dumped materials, may increase the pollutant loads discharged into waters of the United States.

Storm water discharges from haul roads of active sites and inactive mine sites may include many of the pollutants common to active coal mining operations. These pollutants may include acids, suspended solids, dissolved solids, iron, manganese, and traces of other metals. Table H–1 indicates the pollutant sources and pollutants for a number of industrial activities for coal mines authorized by this section.

Another problem at coal mines is acid mine drainage. In general, the problems of acid mine drainage are confined to western Maryland, northern West Virginia, Pennsylvania, western Kentucky, and along the Illinois-Indiana border. Acid mine drainage is not a problem in the West because the coals and overburden contain little pyrite, the precursor for acid mine drainage, and because of low annual precipitation.

TABLE H–1.—ACTIVITIES, POLLUTANT SOURCES, AND POLLUTANTS

Activity	Pollutant source	Pollutant
Road and Rail Construction and Maintenance—Active Sites.	Surface grading and exposure of soils	Dust, TSS, TDS, turbidity, pH.
Raw or Waste Material Transportation.	Material spills	Dust, TSS, TDS, turbidity, pH, sulfates, iron.
Location of Mining and Processing Activities at Inactive Coal Mines.	Raw Material Storage	Dust, TSS, TDS, turbidity, pH sulfates, iron.
	Waste Rock Storage	Dust, TSS, TDS, turbidity, sulfates, iron, pH.
	Disposal Areas	Dust, TSS, TDS, turbidity, pH, oil & grease.
	Surface and Underground Mines	Dust, TSS, TDS, turbidity, pH, sulfates, iron.
	Materials Handling and Loading/Unloading	Dust, TSS, TDS, turbidity, pH, sulfates, iron.
Equipment/Vehicle Maintenance.	Fueling Activities	Diesel fuel, gasoline, oil, COD.
	Parts Cleaning	Solvents, oil, heavy metals, acid/alkaline wastes.
	Waste disposal of oily rags, oil and gas filters, batteries, coolants, degreasers.	Oil, heavy metals, solvents, acids, COD.
Reclamation Activities	Site preparation for stabilization	Dust, TSS, TDS, turbidity.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at coal mining facilities as a whole and not subdivide this sector. Therefore, Table H–2 lists data for selected parameters from facilities in the coal mining sector. These data include the eight pollutants that all facilities were required to monitor for under Form 2F, as well as the pollutants that EPA determined merit further monitoring.

TABLE H–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY COAL MINES AND COAL MINING-RELATED FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant / Sample type	No. of Facilities		No. of Samples		Mean		Minimum		Maximum		Median		95th percentile		[illegible] percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	16	7	19	8	3.1	3.5	0.0	0.0	9.0	17.4	3.0	1.0	15.0	14.4	33.1	33.9
COD	21	11	25	12	22.9	18.8	0.0	0.0	275.0	115.0	0.0	4.0	102.0	86.9	237.5	184.6
Nitrate + Nitrite Nitrogen	17	10	20	10	0.38	0.68	0.00	0.00	3.12	3.12	0.00	0.17	1.85	3.55	3.45	8.60
Total Kjeldahl Nitrogen	18	11	21	12	1.55	1.78	0.00	0.00	5.20	7.40	0.66	0.39	10.33	10.25	32.01	31.31
Oil & Grease	27	N/A	31	N/A	1.7	N/A	0.0	N/A	13.9	N/A	1.0	N/A	6.5	N/A	13.6	N/A
pH	29	N/A	33	N/A	N/A	N/A	5.9	N/A	8.9	N/A	7.0	N/A	8.6	N/A	9.3	N/A
Total Phosphorus	18	9	20	9	0.36	0.08	0.00	0.00	5.90	0.58	0.00	0.00	1.40	0.61	5.00	1.37

[60] Illicit connections are contributions of unpermitted non-storm water discharges to storm sewers from any number of sources including sanitary sewers, industrial facilities, commercial establishments, or residential dwellings. The probability of illicit connections at coal mines and coal mining related facilities is low yet it still may be applicable at some operations.

TABLE H–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY COAL MINES AND COAL MINING-RELATED FACILITIES SUBMITTING PART II SAMPLING DATA[1] (mg/L)—Continued

Pollutant Sample type	No. of Facilities		No. of Samples		Mean		Minimum		Minimum		Median		95th percentile		99th percentile	
	Grab	Comp[2]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
Total Suspended Solids	18	11	22	12	2551	462	0	2	35420	5880	7	131	8167	3011	25454	13034
Aluminum, Total	7	4	9	6	87.36	8.26	0.00	0.10	617.68	36.84	5.72	2.33	886.16	54.11	6089.45	106.24
Iron, Total	11	9	15	10	109.9	53.3	0.6	1.1	900.0	264.0	9.2	11.0	1426.1	264.0	9583.8	961.7

[1] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[2] Composite samples.

Storm water discharges from inactive and abandoned coal mines, preparation, refuse disposal sites, haul roads and other inactive mining-related areas may contain substantial amounts of pollutants without the benefits of sediment and erosion control measures. Sampling data in the EPA 1982 "Development Document for Effluent Guidelines and Standards for Coal Mining" reveal typical ranges for untreated mine drainage and are indicated in Table H–3. The data are based on untreated surface and underground drainage and may not be typical of inactive sites subject only to storm water runoff. For example, a high proportion of underground mines in the survey may have resulted in the relatively low median levels of suspended solids. However, it does indicate the potential array of conventional mining pollutants which could be present in abandoned mine drainage.

3. Options for Controlling Pollutants

Mining facilities are often dissimilar to other types of industrial facilities because they may be situated in remote locations, operate only seasonally or intermittently, yet need year-round storm water management controls. EPA believes that the most effective storm water management controls for limiting the offsite discharge of storm water pollutants from active and inactive coal mines are source reduction BMPs. Source reduction BMPs are methods by which discharges of contaminants are controlled with little or no required maintenance. Examples of these types of controls include diversion dikes, vegetative covers, and berms. Source reduction practices are typically (but not always) low in cost and relatively easy to implement. In some instances, more resource intensive treatment BMPs, including sedimentation ponds and infiltration trenches, may be necessary depending upon the type of discharge, types and concentrations of contaminants, and volume of flow.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, hydrogeology and the environmental setting of each facility, and volume and type of discharge generated. Each facility will be unique in that the source, type, and volume of contaminated storm water discharges will differ. In addition, the fate and transport of pollutants in these discharges will vary. EPA believes that the management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with active and inactive coal mines.

BMPs that minimize erosion and sedimentation are effective for areas along haul and access roads, and for inactive mines. Many BMPs were not listed by part 1 group application participants because the major application submitted by the National Coal Association and the American Mining Congress was comprised of only active mine sites. The only portions of an active mine site to which this section of today's permit applies are haul roads, railways, and conveyor belts, chutes, and aerial tramway haulage areas. Because the scope of storm water program, as it applies to active coal mining sites, is limited, the applicants were not required to provide EPA with BMP data for process wastewater discharges. Furthermore, active surface mines are subject to 30 CFR Part 816 and active underground mines are subject to 30 CFR Part 817, both which require the implementation of BMPs.

Since many coal facilities are required to have BMPs, the data presented in part 1 of the application may underestimate the percentage of facilities with storm water BMPs.

Because BMPs described in the part I data are limited, EPA is providing an overview of supplementary BMPs for use by facility operators to determine appropriate BMPs for haul and access roads at active coal mines and for inactive coal mines. However, due to the site-specific nature of facilities within this sector, BMPs cited do not preclude the use of other viable BMP options. Table H–3 summarizes BMP options as they apply to land disturbance activities at active and inactive coal mining facilities. Sources of BMP information include: "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990; "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices," EPA, September, 1992, (EPA 832–R–92–006); "Best Management Practices for Mining in Idaho," Idaho Department of Lands, November 1992; and "Erosion & Sediment Control Handbook," Goldman et al., McGraw-Hill Book Company, 1986.

TABLE H–3.—SUMMARY OF MINE AREAS AND APPLICABLE BEST MANAGEMENT PRACTICES

Land-disturbed area	Discharge diversions	Conveyance systems	Runoff dispersion	Sediment control & collection	Vegetation	Containment
Haul Roads and Access Roads.	Dikes, Curbs, Berms..	Channels, Gutters, Culverts, Rolling Dips, Road Sloping, Roadway Water Deflectors.	Check Dams, Rock Outlet Protection, Level Spreaders, Stream Alteration, Drop Structures.	Gabions, Riprap, Native Rock Retaining Walls, Straw Bale Barriers, Sediment Traps/Catch Basins, Vegetated Buffer Strips.	Seeding, Willow Cutting Establishment.	

TABLE H–3.—SUMMARY OF MINE AREAS AND APPLICABLE BEST MANAGEMENT PRACTICES—Continued

Land-disturbed area	Discharge diversions	Conveyance systems	Runoff dispersion	Sediment control & collection	Vegetation	Containment
Pits/Quarries or Underground Mines.	Dikes, Curbs, Berms.	Channels, Gutters	Serrated Slopes, Benched Slopes, Contouring, Stream Alteration.	Sediment Settling Ponds, Straw Bale Barrier, Siltation Berms.	Seeding	Plugging and Grouting.
Overburden, Waste Rock and Raw Material Piles.	Dikes, Curbs, Berms.	Channels, Gutters	Serrated Slopes, Benched Slopes, Contouring, Stream Alteration.	Plastic Matting, Plastic Netting, Erosion Control Blankets, Mulch-straw, Compaction, Sediment/Settling Ponds, Silt Fences, Siltation Berms.	Topsoiling, Seedbed Preparation, Seeding.	Capping.
Reclamation	Dikes, Curbs, Berms.	Channels, Gutters	Check Dams, Rock Outlet Protection, Level Spreaders, Serrated Slopes, Benched Slopes, Contouring, Drain Fields, Stream Alteration, Drop Structures.	Gabions, Riprap, and Native Rock Retaining Walls, Biotechnical Stabilization, Straw Bale Barriers, Sediment Traps/Catch Basins, Vegetative Buffer Strips, Silt Fences, Siltation Berms, Brush Sediment Barriers.	Topsoiling, Seedbed Preparation, Seeding, Willow Cutting Establishment.	Capping, Plugging and Grouting.

Haul Roads and Access Roads—Placement of haul roads or access roads should occur as far as possible from natural drainage areas, lakes, ponds, wetlands or floodplains where soil will naturally be less stable for heavy vehicle traffic. If a haul road must be constructed near water, as little vegetation as possible should be removed from between the road and the waterway, as vegetation is a useful buffer against erosion and is an efficient sediment collection mechanism. The width and grade of haul or access roads should be minimal and should be designed to match natural contours of the area. Construction of haul roads should be supplemented by BMPs that divert runoff from road surfaces, minimize erosion, and direct flow to appropriate channels for discharge to treatment areas. Existing haul roads and nearby ditches, without BMPs, can be altered or modified to accommodate the construction of BMPs.

Surface Mines—BMPs can be used to control total suspended solids levels in runoff from unvegetated areas. These can include sediment/settling ponds, check dams, silt fences, and straw bale barriers.

Overburden, Waste Rock, and Raw Material Piles—Overburden, topsoil, and waste rock should be stabilized, recontoured if necessary, and vegetated. In addition surface waters and other sources of water should be diverted around the piles. As many piles as possible should be revegetated (even if only on a temporary basis).

Reclamation Activities—When a coal seam is depleted and operations cease, a mine site must be reclaimed according to appropriate State or Federal standards. Closure activities typically include restabilization of any disturbed areas such as access or haul roads, pits or quarries, sedimentation ponds or work-out pits, and any remaining waste piles. Overburden and topsoil stockpiles may be used to fill in a pit or quarry (where practical.) Recontouring and vegetation should be performed to stabilize soils and prevent erosion.

Major reclamation activities such as recontouring roads and filling in a pit or quarry can only be performed after operations have ceased. However, reclamation activities such as stabilization of banks, and reseeding and revegetation should be implemented in mined out portions, or inactive areas of a site as active mining moves to new areas.

The following seven categories describe best management practice options for reducing pollutants in storm water discharges from haul and access roads for active coal mines and for inactive mines: discharge diversions; drainage/storm water conveyance systems; runoff dispersion; sediment control and collection; vegetation/soil stabilization; capping of contaminated sources; and treatment.

a. Discharge Diversions. Discharge diversions provide the first line of defense in preventing the contamination of discharges, and subsequent contamination of receiving waters of the United States. Discharge diversions are temporary or permanent structures installed to divert flow, store flow, or limit storm water runon and runoff.

These diversion practices have several objectives. First, diversion structures can be designed to prevent otherwise uncontaminated (or less contaminated) water from crossing disturbed areas or areas containing significant amounts of contaminated materials, where contact may occur between runon and significant materials. These source reduction measures may be particularly effective for inactive coal mine sites

because they prevent runon of uncontaminated discharges from contacting exposed materials and/or reduce the flow across disturbed areas, thereby lessening the potential for erosion. Second, diversion structures can be used to collect or divert waters for later treatment, if necessary. The usefulness of these control measures are limited by such factors as the size of the area to be controlled and the type and nature of materials exposed and precipitation events.

Diversion dikes, curbs, and berms are temporary or permanent diversion structures that prevent runoff from passing beyond a certain point, and divert runoff away from its intended path. Dikes, curbs or berms may be used to surround and isolate areas of concern, diverting flow around piles of overburden, waste rock, and storage areas, to minimize discharge contact with contaminated materials and to limit discharges of contaminated water from confined areas.

b. Drainage/Storm Water Conveyance Systems. Drainage or storm water conveyance systems can provide either a temporary or a permanent management practice which functions to channel water away from eroded or unstabilized areas, convey runoff without causing erosion, and/or carry discharges to more stabilized areas. The use of drainage systems as a permanent measure may be most appropriate in areas with extreme slopes, areas subject to high velocity runoff, and other areas where the establishment of substantial vegetation is infeasible or impractical. For instance, several BMPs described below may be useful storm water and erosion control methods applicable to haul roads and access roads.

Channels or Gutters—Channels or gutters collect storm water runoff and direct its flow. Like diversion systems, channels or gutters may act to divert runoff away from a potential source of contamination, but may also be used to channel runoff to a collection and/or treatment area including settling ponds, basins or work-out pits.

Open Top Box Culverts, and Waterbars—These structures are temporary or permanent structures that divert water from a roadway surface. Open top box culverts may be used on steeply graded, unpaved roads in place of pipe culverts to divert surface runoff and flow from inside ditches onto the downhill slope of a road. These structures are typically made of wood and should periodically be monitored and repaired if necessary.

Waterbars are berms built by a dozer, or by hand, to a one to two foot height. They serve to extend the entire width of the road, with a downslope angle between 30 and 40 percent. Waterbars are kept open at a discharge end to allow water to flow away from the road, and require little maintenance. These berms may be used as temporary or permanent structures.

Rolling Dips and Road Sloping—Rolling dips and road sloping are permanent water diversion techniques installed using natural contours of the land during road construction. These BMPs prevent water accumulation on road surfaces and divert surface runoff toward road ditches, which then convey the storm water to ponds or other management areas.

Roadway Surface Water Deflector—A roadway surface water deflector is another technique to prevent accumulation of water on road surfaces. The structure uses a conveyor belt sandwiched between two pieces of treated wood and placed within the road to deflect water. This is a useful technique for steeply graded, unpaved roads.

Culverts—Culverts are permanent surface water diversion mechanisms used to convey water off of, or underneath a road. Made of corrugated metal, they must extend across the entire width of the road, and beyond the fill slope. Additional erosion control mechanisms may need to be installed at the discharge end of the culvert.

c. Runoff Dispersion. Drainage systems are most effective when used in conjunction with runoff dispersion devices designed to slow the flow of water discharged from a site. These devices also aid storm water infiltration into the soil and flow attenuation. Some examples of velocity dissipation devices include check dams, rock outlet protection, level spreaders, and serrated and benched slopes.

Check Dams—Check dams are small temporary dams constructed across swales or drainage ditches to reduce the velocity of runoff flows, thereby reducing erosion and failure of the swale or ditch. This slowing reduces erosion and gullying in the channel and allows sediments to settle.

Check dams may be installed in small temporary or permanent channels where vegetation of the channel lining is not feasible and where there is danger of erosion. These may be areas where installation of nonerosive liners are not cost effective.

Check dams diminish the need for more stringent erosion control practices in the drainage ditch since they decrease runoff velocity. When constructing check dams, the use of overburden or waste rock should be avoided where there is the potential for contamination.

Rock Outlet Protection—Rock protection placed at the outlet end of culverts, channels, or ditches reduces the depth, velocity, and destructive energy of water such that the flow will not erode the downstream reach. The use of some materials (e.g., mine waste rock or ore) should be avoided where contamination may occur. As with check dams, rock outlet protection may also be used as a source reduction treatment mechanism by using rocks containing limestone or other alkaline materials to neutralize acidic discharges.

Level Spreaders—Level spreaders are outlets for dikes and diversions consisting of an excavated depression constructed at zero grade across a slope. Level spreaders diffuse storm water point sources and release it onto areas stabilized by existing vegetation.

Serrated Slopes and Benched Slopes—These runoff dispersion methods break up flow of runoff from a slope, decreasing its ability to erode. Serrated and benched slopes provide flat areas that allow water to infiltrate, and space for vegetation to grow and reinforce soils. Serrated slopes are equipped with small steps, from one to two feet of horizontal surface exposed on each step. Benched slopes have larger steps, with vertical cuts between two and four feet high.

Contouring—Surface contouring is the establishment of a rough soil surface amenable to revegetation, through creating horizontal grooves, depressions, or steps that run with the contour of the land. Slopes may also be left in a roughened condition to reduce discharge flow and promote infiltration. Surface roughening aids in the establishment of vegetative cover by reducing runoff velocity and giving seed an opportunity to take hold and grow. This technique is appropriate for all slopes steeper than 3:1 in order to facilitate stabilization of the slope and promote the growth of a vegetative cover. Once areas have been contoured, they should be seeded as quickly as possible.

Drain Fields—Drain fields are used to prevent the accumulation of water and/or ground water at a site, by diverting infiltrating sources through gravity flow or pumping. Typically filled with porous, permeable materials such as graded rock, or perforated pipe, and lined with geotextile fabric, these mechanisms are useful underneath significant materials, reducing the amount of water that ultimately comes into contact with significant materials.

Stream Alteration—Altering or channelizing the path of a stream to bypass all or some disturbed areas on a site, allows additional mining activities, and avoids contamination of stream water by disturbed lands. This practice is complicated, however, by the need to restore the channel when mining operations end.

Drop Structures—Drop structures are large angular rocks placed in a V-shaped pattern to slow the velocity of storm water runoff. These structures are typically reinforced by logs or large rocks imbedded in the streambanks.

d. Sediment Control and Collection. Sediment control and collection limits movement and retains sediments from being transported offsite. Several structural collection devices have been developed to remove sediment from runoff before it leaves the site. Several methods of removing sediment from site runoff involve diversion mechanisms previously discussed, supplemented by a trapping or storage device. Structural practices typically involve filtering diffuse storm water flows through temporary structures such as straw bale dikes, silt fences, brush barriers or vegetated areas.

Structural practices are typically low in cost. However, structural practices require periodic removal of sediment to remain functional. As such, they may not be appropriate for permanent use at inactive mines. However, these practices may be effectively used as temporary measures along haul roads and access roads.

Plastic Matting, Plastic Netting, and Erosion Control Blankets—These BMPs are used to protect bare soils to control dust and erosion. Mats and blankets help to promote vegetative growth by maintaining moisture and heat within the soil. Plastic matting and netting improve slope stabilization and may be used as a permanent treatment to encourage grass growth. Plastic netting is a more effective material to use while promoting growth of vegetation as it permits sunlight to penetrate through to the soils. Erosion control blankets also stabilize slopes, and control erosion. These blankets may be made of jute, or plastic netting, but are more expensive than straw.

Mulch-straw or Wood Chips—Mulches and wood chips are useful temporary covers for bare or seeded soils, with an erosion control effectiveness rating of 75 to 98 percent.[61] Like matting, mulch-straw or wood chips help soils retain moisture and warmth to promote vegetative growth. Used on slopes and/or in combination with nylon netting, these materials may prevent erosion by wind and water. Over time, however, the mulch cover will decrease in effectiveness.

Compaction—Soil compaction using a roller or other heavy equipment increases soil "strength" by increasing its density. More dense soil is less prone to erosion and long-term soil settlement. The surface of compacted soils should be roughed and seeded or vegetated to increase its durability.

Sediment/Settling Ponds—Sediment ponds function as sediment traps by containing runoff for long periods of time, allowing suspended solids to settle. These structures can achieve a high removal rate of sediment for both process wastewater and storm water discharges. Sediment/settling ponds are easily constructed and require minimal maintenance. Their flexibility to treat both process wastewater and storm water makes the use of ponds a desirable treatment for discharges from ore mining and dressing facilities. Of course, site characteristics must be such that some or all discharges can be practically channeled to a centralized area for treatment. Where this is not practical, the cost of constructing multiple sediment ponds may become prohibitive. In addition, periodic dredging may be required in order to maintain the capacity of these ponds.

Discharge ponds may also be designed to act as surge ponds which are designed to contain storm surges and then completely drain in about 24 to 40 hours, and remain dry during times of no rainfall. They can provide pollutant removal efficiencies that are similar to those of detention ponds.[62] Storm surge ponds are typically designed to provide both water quality and water quantity (flood control) benefits.

Gabions, Riprap, and Native Rock Retaining Walls—These BMPs are all forms of slope stabilization. Gabions consist of rocks (riprap) contained by rectangular wire boxes or baskets for use as permanent erosion control structures. Riprap consists of loose rocks placed along embankments to prevent erosion. Native rock retaining walls are another form of slope stabilization, with walls up to five feet in height, constructed from native rock to reinforce a steep slope.

Biotechnical Stabilization—Biotechnical stabilization uses live brush imbedded in the soils of a steep slope to prevent erosion. This method relies on the premise that the imbedded vegetation will eventually take root and help stabilize the slope.

Straw Bale Barrier—Straw bales may be used as temporary berms, barriers, or diversions, capturing sediments and filtering runoff. When installed and maintained properly, these barriers remove approximately 67 percent of the sediment load.[63] These barriers are applicable across small swales, in ditches, and at the toe of bare slopes where there is a temporary, large volume of sediment laden runoff.

Sediment Traps or Catch Basins—These temporary or permanent structures are useful for catching and storing sediment laden storm water runoff and are particularly useful during construction activities to contain runoff. The effectiveness of these BMPs is better in smaller drainage basin areas. Sediment traps are less than 50 percent effective in removing sediment from storm water runoff.[64]

Vegetated Buffer Strips—The installation of vegetated buffer strips will reduce runoff and prevent erosion at a removal efficiency rate of 75 to 99 percent depending upon the ground cover.[65] In addition, vegetated buffer strips catch and settle sediment contained in the storm water runoff prior to reaching receiving waters.

Silt Fence/Filter Fence—A low fence made of filter fabric, wire and steel posts, should be used on small ephemeral drainage areas where storm water collects or leaves a mine site. Silt fences remove 97 percent of the sediment load and are easier to maintain and remove without creating lasting impacts to the environment.[66] Silt and filter fences need to be inspected periodically, and may not be as effective as straw bales, since fabric may become clogged with fine particles preventing water flow.

Silt fences may have limited applicability for large areas: they are most effective for use in small drainage areas. These fences may also be used in conjunction with nonstructural practices to maintain the integrity of soil prior to the establishment of vegetation.

Siltation Berms—Siltation berms are typically placed on the downslope side of a disturbed area to act as an impermeable barrier for the capture and

[61] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990.

[62] "Urban Targeting and BMP Selection," EPA, Region V, November 1990.

[63] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–74.

[64] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–26.

[65] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–7.

[66] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–75.

retention of sediments in surface water runoff. Plastic sheeting is typically used to cover the berm. The berm and the plastic sheeting may require periodic maintenance and repair.

Brush Sediment Barriers—Brush barriers are temporary sediment barriers composed of tree limbs, weeds, vines, root mat, soil, rock and other cleared materials placed at the toe of a slope. A brush barrier is effective only for small drainage areas, usually less than ¼ acre, where the slope is minimal.

Brush barriers do not function as permanent barriers since over time the barrier itself will degrade. This BMP is most effective when located at the toe of a slope of an area in which vegetation is being grown or during temporary operations. The brush barriers remove any excessive sediment which is generated by erosion prior to the establishment of vegetation.

e. Vegetation Practices. Vegetation practices involve establishing a sustainable ground cover by permanent seeding, mulching, sodding, and other such practices. A vegetative cover reduces the potential for erosion of a site by: absorbing the kinetic energy of raindrops which would otherwise impact soil; intercepting water so it can infiltrate into the ground instead of running off and carrying contaminated discharges; and by slowing the velocity of runoff to promote onsite deposition of sediment. Vegetative controls are often the most important measures taken to prevent offsite sediment movement, and can provide a six-fold reduction in the discharge of suspended sediment levels.[67] Permanent seeding has been found to be 99 percent effective in controlling erosion for disturbed land areas.[68]

Typically, the costs of vegetative controls are low relative to other discharge mitigation practices. Given the limited capacity to accept large volumes of runoff, and potential erosion problems associated with large concentrated flows, vegetative controls should typically be used in combination with other management practices. These measures have been documented as particularly appropriate for mining sites.

Topsoiling, Seedbed Preparation—The addition of a layer of topsoil or plant growth material provides an improved soil medium for plant growth. Seedbed preparation may include the addition of topsoil ingredients to be mixed in with soils used for seedbed preparation. Ripping, dicing, and mixing soils promotes weed control and aerates the soil, encouraging seedling growth.

Broadcast Seeding and Drill Seeding—Seeding and vegetative planting are methods used to revegetate an area. Broadcast seeding spreads seeds uniformly, by hand or machine, to steep sloped or rocky areas, flat surfaces, and areas with limited access. Drill seeding is performed using a rangeland drill seeder and may not be used on rocky surfaces. Drill seeding is more suitably performed on flat, nonrocky surfaces, where the machine can insert seeds into the soil.

Willow Cutting Establishment—Willow cutting establishment describes a method of soil stabilization useful for stream banks and other areas located adjacent to water. Similar to biotechnical stabilization, willow cuttings are used to promote growth in an area needing stabilization. Willow cuttings are typically used to reinforce a streambank or other moist area. Willow cuttings require a great deal of moisture and must be planted in areas that remain moist for long periods in order to take hold and grow.

F. Capping. In some cases, the elimination of a pollution source through capping contaminant sources may be the most cost effective control measure for some discharges from inactive coal mines. Depending on the type of management practices chosen the cost to eliminate the pollutant source may be very high. Once completed, however, maintenance costs will range from low to nonexistent.

Capping or sealing of waste materials is designed to prevent infiltration, as well as to limit contact between discharges and potential sources of contamination. Ultimately, capping should reduce or eliminate the contaminants in discharges. In addition, by reducing infiltration, the potential for seepage and leachate generation may also be lessened.

The use of this practice depends on the level of control desired, the materials available, and cost considerations. Many common liners may be effective including common soil, clay, and/or synthetic liners. Generally, soil liners will provide appreciable control for the lowest cost. Synthetic or clay liners may be appropriate to cover materials known to have a significant potential to impact water quality.

EPA has identified a wide variety of best management practices (BMPs) that may be used to mitigate discharges of contaminants at coal mines. Many of the practices focus on sediment and erosion control and are similar to BMPs used in the construction industry. For more details on the use and implementation of these practices the reader is encouraged to obtain a copy of one or more of the many good sediment and erosion control books available on the market.[69] In some cases (e.g., low pH and/or high metals concentrations), BMPs, and sediment and erosion controls may not be adequate to produce an acceptable quality of storm water discharge. Under those circumstances additional physical or chemical treatment systems may be necessary to protect the receiving waters.

g. Treatment. Treatment practices are those methods of control which are normally used to reduce the concentration of pollutants in water before it is discharged. This is in contrast to many BMPs where the emphasis is on keeping the water from becoming contaminated. Treatment practices may be required where flows are currently being affected by exposed materials and where other BMPs are insufficient to meet discharge goals. These practices are usually the most resource intensive as they often entail significant construction costs and require monitoring and maintenance on a frequent and regular basis. Treatment options may range from high maintenance controls to low maintenance. High maintenance treatment techniques require periodic manpower to operate and maintain the BMP. Low maintenance cost techniques have initial capital costs but operate with little long-term maintenance after they are implemented. At a few sites, treatment measures other than high maintenance measures may be appropriate to address specific pollutants.

Chemical/Physical Treatment—An example of a high maintenance technology that is found at coal mining facilities is chemical/physical treatment. The most common type of chemical/physical treatment involves the addition of limestone to reduce the acidity of the discharge and/or precipitate metals. Metals may be removed from wastewater by raising the pH of the wastewater to precipitate them out as hydroxides. Typically, the pH of the wastewater must be raised to 9 to 12 standard units in order to achieve the

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[67] "Performance of Current Sediment Control Measures at Maryland Construction Sites," January 1990, Metropolitan Washington Council of Governments, page X.

[68] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–4.

[69] "Best Management Practices for Mining in Idaho," Idaho Department of State Lands, November 1992; "Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices," EPA, September 1992, (EPA 832–R–92–005); and "Erosion & Sediment Control Handbook," Goldman et al., McGraw-Hill Book Company, 1986.

desired precipitation of metals. After metals precipitation, the addition of some form of acid or carbon dioxide may be required to reduce the pH to acceptable levels. Polymer addition may be required to enhance the settling characteristics of the metal hydroxide precipitate. In general, this practice requires significant operator participation to ensure proper neutralization and/or precipitation and thus may not be cost effective for most storm water discharges.

Artificial Wetlands—This type of BMP system is gaining popularity as a method of treating process wastewater from inactive coal mines. They can be an effective system for improving water quality either alone or in conjunction with other treatment practices. The complex hydrologic, biological, physical, and chemical interactions that take place within a wetland result in a natural reduction and cleansing of influent pollutants. Wetland processes are able to filter sediments, and absorb and retain chemical and heavy metal pollutants through biological degradation, transformation, and plant uptake.

Artificial wetlands are designed to maintain a permanent pool of water. Properly installed and maintained retention structures (also known as wet ponds) and artificial wetlands will be most cost-effective when used to control runoff from larger, intensively developed sites. These artificial wetlands are created to provide treatment but also provide a wildlife habitat, and enhance recreation and landscape amenities. Artificial wetlands are being intensely researched by the Bureau of Mines as a means of mitigating acid mine drainage.

EPA strongly discourages the use of natural wetlands as part of the treatment system because they are considered to be waters of the United States. The necessary controls, or BMPs, must be provided prior to discharging the storm water runoff to natural wetlands or other receiving waters.

In summary, a wide variety of BMPs are available for inactive coal mines and for use along haul roads and access roads at active coal mines. These measures range from simple low cost, low maintenance source reduction practices such as diversion structures to high cost, maintenance intensive practices such as wetlands treatment. Clearly, the selection of a practice or group of practices will be site-specific depending on conditions and potential impacts as well as the resources available at each site. A specific best available technology (or technologies) cannot be determined because of the differences between sites and the quantities and characteristics of their discharges.

4. Storm Water Pollution Prevention Plan Requirements

Specific requirements for the pollution prevention plan for coal mines and coal mining related facilities are described below. These requirements must be implemented in addition to the common pollution plan provisions described in Section VI.C. of this fact sheet.

a. Contents of the Plan. Under the description of potential pollutant sources section, all coal mining and related facilities are required to describe all potential pollutant sources and provide the locations of these sources.

(1) A site map, such as a drainage map required for SMCRA permits, must indicate drainage areas and storm water outfalls from the potential pollutant sources as indicated in item 1 above. The map should provide, but not be limited to, the following information:

(a) Drainage direction and discharge points from all applicable mining-related areas, including culvert and sump discharges from roads and rail beds and also from equipment and vehicle maintenance areas, lubricants and other potentially harmful liquids

(b) Location of each existing erosion and sedimentation control structure and other control measures for reducing pollutants in storm water runoff

(c) Receiving streams or other surface water bodies

(d) Locations exposed to precipitation which contain acidic or metal ladened spoil, refuse, or unreclaimed disturbed areas

(e) Locations where major spills or leaks of toxic or hazardous pollutants have occurred

(f) Locations where liquid storage tanks containing potential pollutants, such as caustics, hydraulic fluids and lubricants, are exposed to precipitation

(g) Locations where fueling stations, vehicle and equipment maintenance areas are exposed to precipitation

The site map must also indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls (e.g. storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

Under the measures and controls section, operators of the inactive and active coal mines are required to describe storm water management controls for coal mining-related facilities, including the following:

(2) Compliance with SMCRA Requirements. The Surface Mining Control and Reclamation Act (SMCRA) regulations require sediment and erosion control measures and practices for haul roads and most of the other active mining-related areas covered by this section. All such SMCRA requirements are also requirements of the pollution prevention plan and other applicable conditions of this section.

(3) Good Housekeeping Practices. The purpose of good housekeeping practices is to remove or lessen the potential pollution sources before they come into contact with storm water. This includes collection and removal of waste oils collected in traps; cleaning up exposed maintenance areas of spilled lubricants and fuels, and similar measures; and preventing the offsite movement of dust by sweeping or by road watering.

(4) Preventive Maintenance. A timely maintenance program should include: inspections for preventing breakdowns, corrosion of tanks and deterioration of pressure fuel or slurry pressure lines; periodic removal and disposal of accumulated solids in sediment traps; and replacement of straw bales and other control measures subject to weathering and deterioration.

(5) Inspections. For all SMCRA regulated active mining-related sites, which include most of the active facilities under this section, SMCRA authorities are required to conduct regular quarterly inspections. Coordinated inspections by the facility representative would be expected to take place either before, during or after the complete SMCRA inspections. Therefore, inspections by the facility representative would not be placing an undue burden on the facility. In addition, sediment and erosion control measures should be evaluated at least once yearly during a storm period of at least 0.1 inch rainfall where effectiveness can be evaluated first hand. Observations should also be made at this time of resulting impact of any settled solids in the receiving stream.

Inactive coal mines should be inspected at least once yearly, except where very remote, to maintain an appraisal of sediment and erosion control measures, determine outstanding problem areas, and plan for improved measures.

(6) Employee Training. There are no employee training requirements beyond those described in Section VI.C.

(7) Prohibition of Non-storm Water Discharges. Many inactive mines and portions of inactive mines are

abandoned underground mines which have seeps or other discharges which are not in response to storm events. These type discharges from inactive mines are not covered by this section. In addition, floor drains from maintenance buildings and other similar drains in mining and preparation plant areas may contain contaminants and are prohibited from inclusion in this section.

(8) Sediment, Erosion and Flow Management Controls. The plan must describe all sediment, erosion, and flow management controls used to control storm water discharges. The plan should also address the reasonableness and appropriateness of each sediment, erosion, and flow management control, and identify when they are required by State or Federal SMCRA regulations. For the most part, these measures are best management practices expected of construction and other activities which are subject to storm runoff. However, construction activities are usually much more short term than mining activities, so greater emphasis must be placed on implementing long term measures for haul roads and other mining-related facilities.

b. Comprehensive Site Compliance Evaluation. In addition to the comprehensive site compliance evaluation described in Section VI.C.4. of this fact sheet, the plan must be implemented and, where erosion control and pollution prevention measures described in the plan are found deficient, the plan must be revised to include reasonable and appropriate control measures. Reports including observations and incidences of noncompliance must be prepared and kept on file for possible review.

5. Numeric Effluent Limitation

Based on the lack of sampling data, it is infeasible for EPA to calculate effluent limitations at this time. The main pollutant concern is excess solids runoff and discharge, but there are no widely accepted solids limits which could be expected from the recommended sediment and erosion control measures. The 0.5 ml/L settleable solids limit, as required by 40 CFR Part 434 for storm discharges from surface mine settling ponds, can be considered a goal but not a requirement for control measures, which for the most part, consist of sediment ditches, straw bales and similar structures normally used for haul roads. The permit does not cover facilities that are in violation of water quality standards and where water quality-based effluent limits apply.

6. Monitoring and Reporting Requirements

a. Monitoring Requirements. EPA believes that coal mining facilities may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan and to characterize the discharge for potential environmental impacts, Table H–4 lists the pollutants that coal mining facilities are required to collect and analyze in their storm water discharges. The pollutants listed in Table H–4 were found to be above levels of concern for a significant portion of coal mining facilities that submitted quantitative data in the group application process. Because these pollutants have been reported at benchmark levels from coal mining facilities, EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

Permittees can exercise the alternative certification on a pollutant-by-pollutant basis as described under Section (1) below. Any pollutant(s) for which the facility is unable to certify to no exposure must, at a minimum, monitor storm water discharges from coal mining facilities on a quarterly basis during the second year of permit coverage. Monitoring must be performed during the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Table H–4. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE H–4.—MONITORING REQUIREMENTS COAL MINING FACILITIES MG/L

Pollutants of concern	Monitoring cut-off concentration
Total Recoverable Aluminum	0.75 mg/L
Total Recoverable Iron	1.0 mg/L
Total Suspended Solids (TSS)	100 mg/L

If the average concentration for a parameter is less than or equal to the appropriate cut-off concentration, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Table H–4, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. The schedule for monitoring is presented in Table H–5.

TABLE H–5.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table H–4, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table H–4, then no further sampling is required for that parameter.

TABLE H–5.—SCHEDULE OF MONITORING—Continued

4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table H–4. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will be used to reassess the effectiveness of the adjusted pollution prevention plan.

The monitoring cut-off concentrations listed in Table H–4 are not numerical effluent limitations. These values represent a level of pollutant discharge which facilities may achieve through the implementation of pollution prevention plans. At least half of the facilities which submitted Part 2 data reported concentrations greater than or equal to the values listed in Table H–4. Facilities that achieve average discharge concentrations which are less than or equal to the appropriate cut-off concentration values are not relieved from the pollution prevention plan requirements or any other requirements of the permit.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

(1) Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative certification described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring described in Table H–4, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity, and that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph *(2)* below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

(2) Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. For facilities conducting monitoring beyond the minimum quarterly requirements, an additional Discharge Monitoring Report Form must be filed for each analysis.

(3) Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable, permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

b. Visual Examination of Storm Water Quality. Visual examinations of a storm water discharge from each outfall are required except at inactive areas not under SMCRA bond. Active areas under SMCRA bond that are located in areas with an average annual precipitation greater than 20 inches must perform the visual examinations quarterly. Active areas under SMCRA bond with an

average annual precipitation less than or equal to 20 inches are required to perform visual examinations on a semiannual basis. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, turbidity, floating solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each designated period during daylight hours unless there is insufficient rainfall or snow-melt to runoff. Whenever practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Examinations shall be conducted in each of the following periods for the purposes of inspecting storm water quality associated with storm water runoff and snow melt: January through March; April through June; July through September; October through December. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.). For facilities that have an average annual precipitation of 20 inches or less or are designated inactive by SMCRA, EPA requires semiannual visual examinations instead of quarterly.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examination. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

I. Storm Water Discharges Associated With Industrial Activity From Oil and Gas Extraction Facilities

1. Industry Profile

On November 16, 1990 (55 FR 47990), EPA promulgated the regulatory definition of "storm water discharges associated with an industrial activity." This definition includes point source discharges of storm water from eleven major categories of facilities, including: "* * * (iii) facilities classified as Standard Industrial Classification (SIC) codes 10 through 14, including * * * oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, by-products, or waste products located on the site of such operations."

As stated above and at 40 CFR 122.26(b)(14)(iii), only those oil and gas facilities that discharge 'contaminated' storm water are required to submit permit applications under the November 16, 1990, storm water rule. For oil and gas facilities, contamination means that there has been a release of a Reportable Quantity (RQ) of oil or hazardous substances in storm water since November 16, 1987 (hereinafter referred to as 'an RQ release'). Only those facilities that have had an RQ release are required to submit a storm water permit application.

This section of today's permit only covers storm water discharges associated with industrial activities from oil and gas exploration, production, processing, or treatment operations, or transmission facilities. Hereinafter, the facilities listed above will be referred to as "oil and gas facilities." Oil and gas facilities eligible to seek coverage under this section include the following types of operations: crude petroleum and natural gas (SIC Code 1311), natural gas liquids (SIC Code 1321), drilling oil and gas wells (SIC Code 1381), oil and gas field exploration services (SIC Code 1382), oil and gas field services, not elsewhere classified (SIC Code 1389).

These industries include the extraction and production of crude oil, natural gas, oil sands and shale; the production of hydrocarbon liquids and natural gas from coal; and associated oil field service, supply and repair industries. Many of the oil field service facilities may also manufacture oil field equipment. Discharges associated with these manufacturing activities shall be covered by this section if the primary activity of the facility is grouped under Major SIC Group 13.

Pursuant to Section 311 of the Clean Water Act and Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), RQs were established for oil and hazardous substances. As defined at 40 CFR Part 110, an RQ is "the amount of oil that violates applicable water quality standards or causes a film or sheen upon or a discoloration of the surface of the water or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines." The RQs for other substances are listed in 40 CFR 117.3 and 302.4 in terms of pounds released over any 24-hour period.

Discharges covered by this section include all storm water discharges from facilities which have had an RQ release where precipitation and storm water runon come into contact with significant materials including, but not limited to, drilling and production equipment and other machinery, raw materials, waste products, by-products, finished products, stored materials, and fuels. This includes storm water discharges from access roads, and rail lines used or traveled by carriers of raw materials, manufactured products, waste

materials, or by-products created by the facility.

This section does not cover storm water discharges from inactive oil and gas extraction facilities located on Federal lands, unless an operator of the activity can be identified. These discharges are more appropriately covered under a permit currently being developed by EPA.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

Oil and gas exploration and production includes all activities related to the search for, and extraction of, liquid and gas petroleum from beneath the earth's surface. Found almost exclusively in sedimentary rocks, oil and natural gas accumulate in geologic confinements called traps which, by virtue of an impermeable overlying layer, have stopped the migration of the fluid. The volume of petroleum contained in a trap can vary from negligible to billions of barrels.

Though at one time such traps may have been close enough to the surface to allow easy detection (i.e., surface seepage), modern exploration relies on sophisticated geophysical testing techniques to locate potentially producible formations. Gravitational and seismic surveys of subsurface geology provide indirect indications of the likelihood of finding promising geological formations. This process is complicated by the fact that, at least in the U.S., the average depth at which one may reasonably expect to find oil is increasing since many of the largest shallow formations are assumed to have been found already.

Drilling operations require construction of access roads, drill pads, mud pits, and possibly work camps or temporary trailers. Drill pads are areas used to stage the drilling operation and generally range from 2 to 5 acres. The pad accommodates the drilling rig and associated operations including pumps, reserve pits, and mud tanks.

Modern well drilling involves the use of a rotary drill to bore through soil and rock to the desired well depth. The drill bit is constantly washed with a circulating drilling fluid, or "mud," which serves to cool and lubricate the bit and remove the cuttings to the surface. The drilling mud also serves to prevent "blowouts" from overpressured water and gas bearing formations. If the drill reaches the desired depth and fails to locate a producible deposit of oil or gas, the well must be plugged and the site abandoned. Even if oil and/or gas is found the well may not be producible. If the formation fails to exhibit the right combination of expected volume, porosity, and permeability, the costs of extraction would be prohibitive.

After a well has been drilled, it is "completed" if well logging data indicate that the well is capable of producing commercial quantities of oil or gas. Completion includes a number of operations that may be necessary to allow the well to produce oil or gas. These include installing and cementing casing, installing the production tubing and downhole equipment, repairing damage that drilling may have caused to the formation, and possibly stimulating the well. During a well's active life, periodic "workovers" are necessary. Workovers can include a number of procedures intended to maintain or enhance production. These can include repairing or replacing downhole equipment, removing accumulated scale or paraffin from tubing or casing, and stimulating the formation to restore or enhance production. Wells are stimulated, whether by treating with acid or fracturing, during completion or workover or both: it is common for wells to be stimulated at completion and then periodically throughout their lives.

Acid stimulation involves introducing an acid solution to the formation. The acid dissolves the rock, thus creating or enlarging flow path openings. Acids are also used to repair damage to formations caused by drilling or other operations. In addition, they may be used for scale removal and other purposes. Fracturing by hydraulic pressure is achieved by pumping fluids at high pressure (i.e., at high rates) into the well, thereby causing material failure of the rock in the formation of interest (i.e., fractures). Fracturing is also done using explosive devices to fire projectiles into the formation of interest. The fractures induced in the formations serve as flow paths for hydrocarbons.

In instances where the reservoir is sufficiently large, "delineation" wells are drilled to determine the boundary of the reservoir and additional "development" wells are drilled to increase the rate of production from the "field." Because few new wells in the U.S. have sufficient energy (pressure) to force oil all the way to the surface, surface or submersible pumps are placed at the wells and production begins.

This first phase of production, primary production, may continue for several to many years, requiring only routine maintenance to the wells as they channel oil to the surface for delivery to refineries. However, as the oil is removed from the formation, the formation pressure decreases until the wells will no longer produce. Because 70 percent of the total recoverable oil may remain in the formation, additional energy may be supplied by the controlled injection of water from the surface into the formation. The injected water acts to push the oil toward the well bores. Such secondary recovery or "water flooding" projects may employ hundreds of injection wells throughout a field to extend the life of the wells. Much of the water used for injection is pumped along with oil from the producing well, separated from the oil, and then reinjected.

Produced fluid, as pumped from a well, is sent through one or more process units to separate the waste fractions (e.g., produced water, emulsions, scale, and produced sand) from the salable hydrocarbon.

As oil and gas are recovered from wells, they are collected or gathered in pipelines for transport to produced fluid treatment facilities. These facilities separate marketable gas and crude oil from water and sand.

Often, service companies are hired by the oil company to perform many of the activities described above. Typically these contractors drill the wells and perform other specific tasks such as installing casing, conducting formation tests, and managing wastes, etc. When a well or field ceases to produce oil or gas at an economically feasible rate, the field must be abandoned and reclaimed.

2. Pollutants in Storm Water Discharges Associated with Oil and Gas Facilities

Exploration and production techniques will vary depending on the type and characteristics of formations, pollutants present, and waste management controls. Therefore, impacts associated with storm water discharges from oil and gas facilities will vary. Several other factors influence to what extent significant materials from these types of facilities and processing operations can affect water quality.

Such factors include: hydrology/geology; the types of chemical additives and lubricating fluids used; the procedure for waste management; the nature and size of the RQ release; the amount of contamination remaining after the RQ release; the size of the operation; and type, duration, and intensity of precipitation events. These and other factors will interact to influence the quantity and quality of storm water runoff. In addition, sources of pollutants other than storm water, such as illicit connections,[70] spills, and other improperly dumped materials, may increase the pollutant loadings discharged into waters of the United States.

Based on information submitted with the group applications and other documents, EPA has identified some storm water pollutants and sources typically associated with oil and gas facilities in Table I–1. Due to distinct industrial activities and materials used at facilities, however, sources and associated pollutants will vary from site to site. The pollutants listed in Table I–1 are not meant to be a comprehensive listing of all potential storm water pollutants at oil and gas facilities.

TABLE I–1.—ACTIVITIES, POLLUTANT SOURCES, AND POLLUTANTS

Activity	Pollutant source	Pollutant
Construction of: —Access Roads —Drill Pads —Reserve Pits —Personnel Quarters —Surface Impoundments	Soil/dirt, leaking equipment and vehicles	TSS, TDS, oil and grease.
Well Drilling	Drilling fluid,[1] lubricants, mud, cuttings, produced water	TSS, TDS, oil and grease, COD, chlorides, barium, naphthalene, phenanthrene, benzene, lead, arsenic, fluoride.
Well Completion/Stimulation	Fluids (used to control pressure in well), cement, residual oil, acids, surfactants, solvents, produced water, sand.	TSS, TDS, oil and grease, COD, pH, acetone, toluene, ethanol xylenes.
Production	Produced water, oil, waste sludge, tank bottoms, acids, oily debris, emulsions.	Chlorides, TDS, oil and grease, TSS, pH, benzene, phenanthrene, barium, arsenic, lead, antimony.
Equipment Cleaning and Repairing.	Cleaning solvents, lubricants, chemical additives	TSS, TDS, oil and grease, pH.
Site Closures	Residual muds, oily debris	TSS, TDS, oil and grease.

[1] The potential contaminants to be found in drilling fluid varies from site to site, depending on the components of the fluid and any pollutants added due to use of the fluid. Storm water discharges that come into contact with used drilling fluids may include the following pollutants, among others: toluene, ethyl benzene, phenol, benzene, and phenanthrene. Used drilling fluids may also contain inorganic pollutants from additives or downhole exposure, such as arsenic, chromium, lead, aluminum, sulfur, and various sulfates.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at oil and gas extraction facilities as a whole and not subdivide this sector. Therefore, Table I–2 lists data for selected parameters from facilities in the oil and gas extraction sector. These data include the eight pollutants that all facilities were required to monitor under Form 2F.

TABLE I–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY OIL AND GAS EXTRACTION FACILITIES SUBMITTING PART II SAMPLING DATA[1] (MG/L)

Pollutant	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		85th percentile		99th Percentile	
Sample type	Grab	Comp[2]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	34	32	39	37	13.9	10.7	0.0	0.0	116.0	80.0	10.4	7.0	32.9	26.8	52.9	44.8
COD	35	32	40	35	136.3	112.2	14.0	0.0	1050.0	450.0	76.5	76.0	401.9	320.4	755.3	601.4
Nitrate + Nitrite Nitrogen	34	31	36	35	0.47	0.54	0.00	0.00	5.50	9.90	0.15	0.09	2.06	2.10	6.17	7.15
Total Kjeldahl Nitrogen	30	32	40	34	1.31	1.52	0.00	0.00	9.00	14.50	0.89	0.83	4.68	5.48	9.75	12.58
Oil & Grease	35	N/A	40	N/A	9.4	N/A	0.0	N/A	186.0	N/A	3.0	N/A	24.7	N/A	58.0	N/A
pH	34	N/A	40	N/A	N/A	N/A	5.9	N/A	11.3	N/A	7.2	N/A	9.2	N/A	10.0	N/A
Total Phosphorus	33	32	40	37	16.17	3.86	0.00	0.00	149.72	50.74	0.20	0.16	66.03	20.01	497.66	102.13
Total Suspended Solids	35	32	41	34	332	369	3	1	1657	4156	70	40	1320	1031	8110	7869

[1] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[2] Composite samples.

3. Options for Controlling Pollutants

In evaluating options for controlling pollutants in storm water discharges, EPA must achieve compliance with the technology-based standards of the Clean Water Act [Best Available Technology (BAT) and Best Conventional Technology (BCT)]. The Agency does not believe it is necessary to establish specific numeric effluent limitations or a specific design or performance standard in this section for storm water discharges associated with industrial activity from oil and gas facilities to meet the BAT/BCT standards of the Clean Water Act. Rather than setting limits, this section establishes requirements for the development and implementation of a site-specific storm water pollution prevention plan consisting of a set of BMPs that are sufficiently flexible to address different sources of pollutants at different sites.

[70] Illicit connections are contributions of unpermitted non-storm water discharges to storm sewers from any of a number of sources including sanitary sewers, industrial facilities, commercial establishments, or residential dwellings. The probability of illicit connections at mineral mining and processing facilities is low yet it still may be applicable at some operations.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, geology/hydrology and the environmental setting of each facility, and volume and type of discharge generated. Each facility will be unique in that the source, type and volume of contaminated storm water discharges will differ. In addition, the fate and transport of pollutants in these discharges will vary. EPA believes that the management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with facilities in this category.

Two types of BMPs which may be implemented to prevent, reduce or eliminate pollutants in storm water discharges are those which minimize exposure (e.g., covering, curbing, or diking) and treatment type BMPs which are used to reduce or remove pollutants in storm water discharges (e.g., oil/water separators, sediment basins, or detention ponds). EPA believes exposure minimization is an effective practice for reducing pollutants in storm water discharges from oil and gas facilities. Exposure minimization practices lessen the potential for storm water to come in contact with pollutants. These methods are often uncomplicated and inexpensive. They can be easy to implement and require little or no maintenance. EPA also believes that in some instances more resource intensive treatment type BMPs are appropriate to reduce pollutants such as suspended solids and oil/grease in storm water discharges associated with oil and gas facilities. Though these BMPs are somewhat more resource intensive, they can be effective in reducing pollutant loads and may be necessary depending on the type of discharge, types and concentrations of contaminants, and volume of flow.

The types of BMPs used may depend upon the methods of waste management utilized at a facility. Waste management and disposal practices at oil and gas facilities may vary significantly. For example, techniques for disposal of produced water and associated wastes include the following: landfarming/spreading (spreading wastes on land surfaces to stimulate biological degradation); backfilling (storing wastes in a pit and then covering with dirt or other materials); evaporation (in more arid parts of the country, liquid wastes are left exposed and eventually evaporate or percolate into the ground); discharging wastes (sometimes treated) to waters of the United States (NPDES permits are required for such discharges); injection (injecting wastes back into the ground for disposal); and offsite disposal (wastes are taken offsite to a commercial facility for disposal).

The pollutants of concern and the BMPs employed at an oil and gas facility depend upon which, if any, of the disposal techniques listed above are utilized. Where wastes are used for onsite road application, for example, all pollutant constituents of that waste need to be considered a potential contributor to contaminated storm water discharges. In addition, the areas at the facility where road application occurs must also be considered when BMPs are being implemented. In contrast, if all waste is taken to an offsite disposal facility, the waste will most likely not affect the storm water discharges and the areas of concern will not be expanded.

Table I–3 lists some BMPs which may be effective in limiting the amount of pollutants in storm water discharges from oil and gas facilities. The BMPs listed are not necessarily required to be implemented. Rather, BMPs should be chosen based on the specific nature of the storm water discharges at each oil and gas facility and implemented as appropriate. Some of these BMPs involve reducing the amount of waste produced and stored onsite which can potentially contaminate storm water. Based on part 1 information, several of the BMPs suggested are already in place at many of the facilities. Part 1 submittals indicate that diking or other types of diversion occur at approximately 57 percent of the sampling facilities. Thirty percent of the sampling facilities noted that they use some form of covering as a BMP, and catch basins are in place at 12 percent of the sampling facilities. In addition, 11 percent of the facilities designated as samplers in part 1 information reported they had a Spill Prevention Control and Countermeasure Plan in place, and 16 percent had a material management plan.

TABLE I–3.—SUGGESTED BMPS FOR OIL AND GAS FACILITIES

Suggested BMPs
Utilize diking and other forms of containment and diversion around storage tanks, drums of oil, acid, production chemicals, and liquids, reserve pits, and impoundments.
Use diking and other forms of containment and diversion around material handling and processing areas.
Use porous pads under drum and tank storage areas.
Use covers and/or lining for waste reserve and sludge pits to avoid overflows and leaks.
Use drip pans, catch basins, or liners during handling of materials such as tank bottoms.
Reinject or treat produced water instead of discharging it.
Limit the amount of land disturbed during construction of access roads and facilities.
Employ spill plans for pipelines, tanks, drums, etc.
Recycle oily wastes, drilling fluids and other materials onsite, or dispose of properly.
Take wastes offsite to be disposed of instead of burying them.
Use oil water separators.

4. Special Conditions

There are no additional requirements beyond those described in Part VI.B. of this fact sheet.

5. Storm Water Pollution Prevention Plan Requirements

a. Contents of the Plan. Specific requirements for the pollution prevention plan for oil and gas extraction facilities are described below. These requirements must be implemented in addition to the common prevention plan provisions discussed in Section VI.C. of this fact sheet.

(1) Description of Potential Pollutant Sources. Facilities under this section cover a broad range of oil field activities and service industries.

Drilling sites have large disturbed areas which will contribute additional sediments and suspended solids to the storm water runoff. Well drilling

includes the use of many hazardous chemicals and materials. These include drilling muds, well casing cement, fractionating gels, and well treatments. The storage, mixing, and handling of these materials are potential pollutant sources.

Oil field service industries provide a variety of services for exploration and production activities. These service industries often store and mix chemicals for drilling muds, well casing cement, fractionating gels, and well treatments at the facility. The storage and mixing areas are potential pollutant sources. Often, mixing areas and equipment are exposed to storm water. Many oil field service facilities manufacture some oil field equipment components. The exposed raw materials, intermediate products, finished products, and waste products are potential sources of pollutants in storm water.

In its description of potential pollutant sources, a facility must include information about the RQ release which triggered the permit application requirements. Such information must include: the nature of the release (e.g., spill of oil from a drum storage area); the amount of oil or hazardous substance released; amount of substance recovered; date of the release; cause of the release (e.g., poor handling techniques as well as lack of containment in area); area affected by release, including land and waters; procedure to cleanup release; and remaining potential contamination of storm water from release.

(2) Measures and Controls.

(a) RQ Releases—The permittee must describe the measures taken to clean up RQ releases or related spills of materials, as well as measures proposed to avoid future releases of RQs. Such measures may include, among others: improved handling or storage techniques; containment around handling areas of liquid materials; and use of improved spill cleanup materials and techniques.

(b) Vehicle and Equipment Storage Areas—Vehicles and equipment associated with oil field activity are often coated with oil, oil field drilling muds, and the chemicals associated with drilling. These vehicles and equipment are a significant source of pollutants. The permittee must address these areas, and institute practices to minimize pollutant runoff from this area.

(c) Vehicle and Equipment Cleaning and Maintenance Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for vehicle and equipment cleaning. The facility may consider performing all cleaning operations indoors, covering the cleaning operation, and/or collecting the storm water runoff from the cleaning area and providing treatment or recycling. These cleaning and maintenance activities can result in the exposure of cleaning solvents, detergents, oil and grease and other chemicals to storm water runoff. The use of drip pans, maintaining an organized inventory of materials used in the shop, draining all parts of fluids prior to disposal, prohibiting the practice of hosing down the shop floor where the practice would result in the exposure of pollutants to storm water, using dry cleanup methods, and/or collecting the storm water runoff from the maintenance area and providing treatment or recycling may reduce the pollutants discharged in storm water runoff.

(d) Materials Storage Areas—Storage units of all chemicals and materials (e.g., fuels, oils, used filters, spent solvents, paint wastes, radiator fluids, transmission fluids, hydraulic fluids, detergents drilling mud components, acids, organic additives) may result in the contamination of storm water discharges. Labeling of all storage containers helps facility personnel to respond effectively to spills or leaks. Additionally, covered storage of the materials and/or installation of berming and diking at the area can be effective BMPs.

(e) Chemical Mixing Areas—Chemical mixing (e.g., the mixing of drilling muds, fractionating gels, mixing well casing cement, and well treatment acids and solvents) at both well sites and at facilities with service drilling activities have significant potential to contaminate storm water runoff. The facility should consider covering the mixing area, using spill and overflow protection, minimizing runon of storm water to the mixing area, using dry cleanup methods, and/or collecting the storm water runoff and providing treatment or recycling. The facility should consider installation of berming and diking of the area. The waste water pollutants associated with produced waters, drilling muds, drill cuttings and produced sand from any source associated with onshore oil and gas production, field exploration, drilling, well completion, or well treatment are prohibited from being discharged (40 CFR 435.32).

(f) Preventive Maintenance—The preventive maintenance program must include the inspection of all onsite and offsite mixing tanks and equipment, and inspection of all vehicles which carry supplies and chemicals to oil field activities. These mixing tanks and vehicles carry large volumes of fractionating chemicals and gels, cements, drilling muds, and well treatment chemicals and acids that potentially may contaminate waters of the United States if leaks or spills occur.

(g) Inspection Frequency—All equipment and areas addressed in the pollution prevention plan shall be inspected semiannually. Equipment and vehicles which store, mix or transport hazardous materials will be inspected quarterly. Inspections shall also include the inspection of all onsite mixing tanks and equipment, and inspection of all vehicles which carry supplies and chemicals to oil field activities. These mixing tanks and vehicles carry large volumes of fractionating chemicals and gels, cements, drilling muds, and well treatment chemicals and acids that potentially may contaminate waters of the United States if leaks or spills occur.

6. Numeric Effluent Limitation

There are no additional numerical effluent limitations beyond those listed in Part V.B. of today's permit.

7. Monitoring and Reporting Requirements

a. Monitoring Requirements. The regulatory modifications at 40 CFR 122.44 (i)(2) established on April 2, 1992, grant permit writers the flexibility to reduce monitoring requirements in storm water discharge permits. EPA has determined that the potential for storm water discharges to contain pollutants above benchmark levels, because of the industrial activities and materials exposed to precipitation, does not support sampling at oil and gas facilities. Based on a consideration of the BMPs typically used at these facilities, and generally low pollutant values from the application data, EPA believes that the pollution prevention plan with visual examinations of storm water discharges will help to ensure storm water contamination is minimized. Because permittees are not required to conduct sampling, they will be able to focus their resources on developing and implementing the pollution prevention plan.

Quarterly visual examinations of a storm water discharge from each outfall are required at oil and gas facilities. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, turbidity, floating solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are

required to be performed on these samples.

The examination must be made at least once in each designated period during daylight hours unless there is insufficient rainfall or snow-melt to produce a runoff. Whenever practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff and snow melt: January through March; April through June; July through September; October through December. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 60 minutes) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

As discussed above, EPA does not believe that chemical monitoring is necessary for oil and gas facilities. EPA believes that between quarterly visual examinations and site compliance evaluations potential sources of contaminants can be recognized, addressed, and then controlled with BMPs. In determining the monitoring requirements, EPA considered the nature of the industrial activities and significant materials exposed at these sites, and performed a review of data provided in Part 2 group applications.

J. Storm Water Discharges Associated With Industrial Activity From Mineral Mining and Processing Facilities

1. Industry Profile

On November 16, 1990 (55 FR 47990), EPA promulgated the regulatory definition of "storm water discharges associated with industrial activity." This definition included point source discharges of storm water from eleven major categories of facilities, including: "* * * (iii) facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of noncoal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or storm water contaminated by contact with, any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations."

This section only covers storm water discharges associated with industrial activities from active and inactive mineral mining and processing facilities. Mineral mining and processing facilities eligible to seek coverage under this section include the following types of operations: Dimension Stone (SIC Code 1411); Crushed and Broken Limestone (SIC Code 1422); Crushed and Broken Granite (SIC Code 1423); Crushed and Broken Stone (SIC Code 1429); Construction Sand and Gravel (SIC Code 1442); Industrial Sand and Gravel (SIC Code 1446); Kaolin and Ball Clay (SIC Code 1455); Clay, Ceramic, and Refractory Minerals (SIC Code 1459); Potash, Soda, and Borate Minerals (SIC Code 1474); Phosphate Rock (SIC Code 1475); Chemical and Fertilizer Mineral Mining (SIC Code 1479); and Miscellaneous Nonmetallic Minerals, Except Fuels (SIC Code 1499).

Storm water discharges covered by this section include all discharges where precipitation and storm water runon come into contact with significant materials including, but not limited to, raw materials, waste products, by-products, overburden, stored materials, and fuels. This includes storm water discharges from haul roads, access roads, and rail lines used or traveled by carriers of raw materials, manufactured products, waste materials, or by-products created by the facility.

This permit may authorize storm water discharges associated with industrial activity that are mixed with storm water discharges associated with industrial activity from construction activities, provided that the storm water discharge from the construction activity is in compliance with the terms, including applicable Notice of Intent (NOI) or application requirements, of a different NPDES general permit or individual permit authorizing such discharges.

This section does not cover any discharge subject to effluent limitation guidelines, unless otherwise specified, including storm water that combines with process wastewater. Storm water that does not come into contact with any overburden, raw material, intermediate product, finished product, by-product, or waste product located on the site of the operation are not subject to permitting under this section according to Section 402(l)(2) of the Clean Water Act. Today's permit contains additional coverage provisions applicable only to mineral mining and processing facilities located in Region VI and Region IX (the States of Louisiana, New Mexico, Oklahoma, and Texas and Arizona). Mine dewatering discharges, which are composed entirely of storm water or ground water seepage, and that are not commingled with any process waste water from

construction sand and gravel, industrial sand, and crushed stone mine facilities located in Region VI and Region IX are eligible for coverage under today's permit. Such discharges, however, are subject to the numeric limitations and compliance monitoring provisions listed in the permit.

This section is applicable to all phases of mining operations, whether active or inactive, as long as there is exposure to significant materials. This includes land disturbance activities such as the expansion of current extraction sites, active and inactive mining stages, and reclamation activities.

This section does not apply to storm water discharges from inactive mining operations occurring on Federal lands, unless an operator can be identified. These discharges are more appropriately covered under a permit currently being developed by EPA.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

There are typically three phases to a mining operation: the exploration and construction phase; the active phase; and the reclamation phase. The exploration and construction phase entails exploration and a certain amount of land disturbance to determine the financial viability of a site. Construction includes building of site access roads, and removal of overburden and waste rock to expose minable ore. These land-disturbing activities are significant potential sources of storm water contaminants. The active phase includes each step from extraction through production of a saleable product. The active phase may include periods of inactivity due to the seasonal nature of these mineral mining activities. The final phase of reclamation is intended to return the land to its pre-mining state.

Because of the land-disturbing nature of the mineral mining and processing industry, contaminants of concern generated by industrial activities in this industry include total suspended solids (TSS), total dissolved solids (TDS), turbidity, and pH. Table J–1 lists potential pollutant source activities, and related pollutants associated with mineral mining and processing facilities.

Industrial activities, significant materials, and material management practices associated with mineral mining and processing methods are typically similar, varying only in the type of rock being mined. Examples of mineral commodities obtained from mineral mining and processing facilities include: crushed stone; construction sand and gravel; industrial sand; gypsum; asphaltic minerals; asbestos and wollastonite; lightweight aggregates; mica and sericite; barite; fluorspar; salines from brine lakes; borax minerals; potash; sodium sulfate; trona; rock salt; phosphate rock; frasch sulfur; mineral pigments; lithium; bentonite; magnesite; diatomite; jade; novaculite; fire clay; attapulite and montmorillonite; kyanite; shale and common clay; aplite; tripoli; kaolin; ball clay; feldspar; talc, steatite, soapstone and pyrophylite; garnet; and graphite.

Industrial activities include, "* * * but [are] not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters (as defined at 40 CFR Part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials and intermediate and finished materials; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water" (40 CFR 122.26(b)(14)). The most common industrial activities at mineral mine sites include extraction of the mineral, material sizing by crushers, material sorting, and product washing.

TABLE J–1.—ACTIVITIES, POLLUTANT SOURCES, AND POLLUTANTS

Activity	Pollutant source	Pollutant
Site Preparation	Road Construction	Dust, TSS, TDS, turbidity.
	Removal of Overburden	Dust, TSS, TDS, turbidity.
	Removal of waste rock to expose the mineral body	Dust, TSS, TDS, turbidity.
Mineral Extraction	Blasting activities	Dust, TSS.
Mineral Processing Activities	Rock Sorting	Dust, TSS, TDS, turbidity, fines.
	Rock Crushing	Dust, TSS, TDS, turbidity, fines.
	Rock Washing	TSS, TDS, turbidity, pH.
	Raw Material Storage	Dust, TSS, TDS, turbidity.
	Waste Rock Storage	Dust, TSS, TDS, turbidity, pH.
	Raw Material Loading	Dust, TSS, TDS, turbidity.
	Processing materials unloading	Diesel fuel, gasoline, oil, lime.
	Raw or Waste Material Transportation	Dust, TSS, TDS, turbidity.
Other Activities	Sedimentation pond upsets	TSS, TDS, turbidity, pH.
	Sedimentation pond sludge removal and disposal	Dust, TSS, TDS, turbidity, pH.
	Air emission control cleaning	Dust, TSS, TDS, turbidity.
Equipment/Vehicle Maintenance.	Fueling activities	Diesel fuel, gasoline, oil.
	Parts cleaning	Solvents, oil, heavy metals, acid/alkaline wastes.
	Waste disposal of oily rags, oil and gas filters, batteries, coolants, degreasers.	Oil, heavy metals, solvents, acids.
	Fluid replacement including hydraulic fluid, oil, transmission fluid, radiator fluids, and grease.	Oil, arsenic, lead, cadmium, chromium, benzene, TCA, TCE, PAHs, solvents.
Reclamation Activities	Site preparation for stabilization	Dust, TSS, TDS, turbidity.

TABLE J–1.—ACTIVITIES, POLLUTANT SOURCES, AND POLLUTANTS—Continued

Activity	Pollutant source	Pollutant
	Fertilizers	Nitrogen, phosphorus.

Sources: Storm water group applications, Part 1 and 2 and EPA. "Development Document on the Mineral Mining and Processing Point Source Category." (EPA 440/1–76/059b). July 1979.

Significant materials include, "* * * but [are] not limited to: raw materials, fuels, materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; * * * hazardous substances designated under Section 101(14) of CERCLA; any chemical facilities required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharge" (40 CFR 122.26(b)(12)). Significant materials commonly found at mining facilities include: overburden; waste rock; sub-ore piles; tailings; petroleum-based products; solvents and detergents; manufactured products; and other waste materials.

Materials management practices are defined as those practices employed to diminish contact by significant materials with precipitation and storm water runon, or practices utilized to reduce the offsite discharge of contaminants. To this end, sediment ponds, discharge diversion techniques, as well as methods of dispersion, are used to minimize impacts of significant materials on storm water. For mine sites requiring additional sources of water for processing operations, rainfall events as well as storm water runon will be managed for use in dust suppression, processing, and washing activities. Many mine sites are already equipped with sedimentation ponds and other established process wastewater treatment methods in order to meet effluent limitation guidelines. Additional storm water management practices used at mineral mining facilities include: discharge diversions; drainage/storm water conveyances; runoff dispersion; sediment control and collection practices; vegetation/soil stabilization; and capping contaminated sources.

Nonmetallic minerals are recovered using four basic forms of extraction techniques: open pit, open face or quarry mining; dredging; solution mining; and underground mining. Each type of extraction method may be followed by varying methods of beneficiation and processing. Presented below are brief descriptions of the industrial activities, significant materials, and materials management practices associated with these four extraction processes and associated beneficiation activities. Due to similarities in mining operations for many of the minerals within this sector, industrial activities, significant materials, and materials management practices are fairly uniform across this sector. Unique practices are noted.

a. Open Pit, Open Face, or Quarry Mining. Many mineral mining and processing industries access mineral deposits using open pit, open face or quarrying extraction techniques. For facilities producing dimension stone, crushed and broken stone, construction and industrial sand and gravel, clays, as well as other minerals (borate, phosphate, potash), surface mining is generally the most economical form of extraction.

(*1*) *Industrial Activities.* Extraction activities include removal of overburden and waste rock to access mineral deposits. These land-disturbing activities generate piles of topsoil and other overburden as well as waste rock, which are typically stored beside, or within, the pit or quarry. In addition, land disturbance, blasting, crushing, and materials handling activities create large amounts of dust that are either dispersed by local wind patterns or collected in air pollution control mechanisms. At closure, overburden and waste rock may or may not be used to reclaim the pit or quarry depending on Federal, State and local requirements. In addition, access roads and rail spurs, and associated loading and unloading areas, are found onsite.

Following extraction, the mined materials may be transferred to a nearby beneficiation/processing facility or may be beneficiated within the pit or quarry. At a beneficiation/processing facility, unfinished materials may be subjected to dry or wet processing methods. Dry forms of processing include crushing, grinding, sawing, and splitting of the mined material. Wet processing may include simple washing, flotation, or heavy media separation.

(*2*) *Significant Materials.* Significant materials generated by most extraction activities at open pit, open face, and quarry mines include overburden piles, waste rock piles, ore and subore piles, and materials spilled from loading and unloading activities. Other exposed materials that can be generated at these types of operations (as well as other mineral mines), include: tailings from flotation and other separation stages; soils impacted by fugitive dust emissions; other process wastes such as clays from phosphate mines; settling ponds that receive process wastewaters; dredged sediment disposal areas; as well as raw material and product storage. Dust and particulate matter collected in air pollution control mechanisms may also be disposed of in onsite waste piles.

(*3*) *Materials Management Practices.* Materials management practices at open pit or quarry mining facilities are typically designed to control dust emissions and soil erosion from extraction activities, and offsite transport of significant materials. At many facilities structural Best Management Practices (BMPs) may have already been implemented to manage process wastewaters subject to effluent limitation guidelines. Settling ponds and impoundments are commonly used to reduce Total Suspended Solids (TSS), Total Dissolved Solids (TDS), and other contaminants in process generated wastewaters. These controls may also be used to manage storm water runoff and runon with potentially few alterations to onsite drainage systems. Some facilities included in part 1 of the group applications reported the use of storm water diversions to divert storm water away from pits and quarries, raw material piles, overburden, and waste rock piles.

Tailings impoundments are used to manage tailings generated at facilities engaged in flotation or heavy media separation operations. These impoundments are used to manage beneficiation/processing wastewaters generated at the facility and may also be used to manage storm water runoff.

b. Dredging. Dredging is an extraction method used to access nonmetallic mineral deposits located in quarries or pits (where completely or partially below the water table); in rivers; or estuaries; or offshore, in open bays or sounds. For these types of operations, ore is recovered using scooping devices and suction dredges. Minerals commonly excavated by dredging include sand and gravel, and calcium carbonate.

(1) Industrial Activities. The industrial activities at dredging facilities include excavation of ore from underwater deposits (e.g., in stream beds of perennial or ephemeral streams) by dredges. Processing operations may occur on the dredge barges or at adjacent facilities. On-board processing activities may include: screening; crushing of oversized material; washing; sand classification with hydraulic classifying tanks; gravel sizing; heavy media separation; and product loading/unloading.

Dredges that do not perform on-board processing operations load raw material on a tow-barge for transport to a land-based processing facility. Processing at land facilities typically includes washing to remove clay and other impurities; screening; sizing; crushing; classifying; and heavy media separation.

(2) Significant Materials. Significant materials generated at dredging facilities include ore material piles, waste material piles of oversized, or otherwise unusable materials, and float waste from heavy media separation. Clays and undersized fines are dredging waste by-products that may be returned to the water but may also be stored in piles. Sand fines from gravel crushing operations that cannot be sold, are a major source of exposed waste material at land-based processing facilities. In addition, land-based facilities may also manage dredged sediments removed from onsite settling ponds. Haul roads, storage piles, on-land waste piles, processing operations, and loading/unloading operations are other potential sources of storm water pollutants at these facilities.

(3) Materials Management Practices. Hydraulic dredging operations in open pits or quarries, or land-based processing facilities, use settling ponds for the removal of clay particles, fines, and impurities from process wastewaters. These ponds may also be used to manage contaminated storm water runoff. Water from the settling ponds or basins may be returned to the wet pit to maintain water levels in the pit, or may be discharged offsite. Worked out pits may also be used to contain solid wastes such as fines and oversized materials. These pits are another potential source of storm water contamination in the event of heavy precipitation and subsequent overflow.

Dredging operations in open waters typically discharge process wastewater containing fines to the water body without treatment under the operator's Clean Water Act Section 404 permit.

c. Solution Mining. Solution mining extracts minerals from hard rock mineral or natural brine sources by underground injection of a lixiviant into the ore zone. Minerals are recovered from solution, after the solution is brought to the surface, through evaporation or flotation. Since most solution mining extraction activities occur underground using water to extract values, the potential for these mineral deposits to be exposed to storm water is minimal. However, at the surface of solution mining operations, industrial activities and significant materials, such as haul roads, chemical storage areas, and raw material piles, are common to most sites. These industrial activities and significant materials are all susceptible to storm water exposure and require appropriate storm water management controls.

Descriptions of industrial activities performed by each type of solution mining are provided below. Since the mineral deposits are not exposed to storm water for this type of mining, "industrial activities" describes the type of extraction method used to obtain minerals, not activities susceptible to storm water exposure. Significant materials, and materials management practices do refer to those materials exposed to storm water, and to the subsequent management practices used to control storm water.

Some of the minerals extracted using solution mining include: potash; soda; rock salt; borate minerals; chemical and fertilizer minerals such as barite, fluorspar, salines from lake brines; lithium; and mineral pigments. Many of these minerals may also be recovered using surface and/or underground extraction methods.

(1) Solution Mining—Injection.

(a) Industrial Activities—Rock salt and potash minerals may be recovered by injecting water into subsurface deposits and removing minerals in solution. Water is injected through a cased pipe drilled into a deposit. Saturated solution is then pumped to the surface for processing or storage. Processing may include evaporation, and/or flotation to separate the final product.

(b) Significant Materials—Significant materials at an injection solution mining site may include product storage piles, chemical storage areas, and haul roads. Very little extracted solution remains onsite, since it is often re-injected into the formation.

(c) Materials Management Practices—Solution mining facilities typically operate in arid regions, and are able to use solar evaporation ponds to recover minerals from solution. Due to typically low precipitation and high evaporation rates in these areas, storm water materials management practices may not be prevalent.

(2) Solution Mining—Frasch Sulfur.

(a) Industrial Activities—Sulfur is recovered from deposits using the Frasch sulfur process, which injects hot, purified, water into the subsurface to melt the mineral. Molten sulfur is pumped directly to heated tanks at the surface to maintain a saleable product in liquid form.

(b) Significant Materials—Significant materials generated from Frasch sulfur mining include elemental sulfur, scrap sulfur, tank bottoms, water treatment sludge, bleedwater produced from bleed wells used to remove excess injection water, and drilling wastes such as muds, acidizing fluids and well workover fluids. Since molten sulfur product is piped directly from underground to enclosed storage tanks on the surface, it is not exposed to storm water.

(c) Materials Management Practices—Solid wastes such as elemental and scrap sulfur, tank bottoms, and water treatment sludge may be disposed of in onsite piles. Liquid wastes such as bleedwater, drilling muds, acidizing fluids and workover fluids are typically disposed of in reserve pits and/or workover pits. At the completion of drilling, pit contents may be dried prior to being covered by a liner and buried. Accumulated solids from these pits may also be mixed with clay for use as an additive in drilling muds.

Rainfall runoff and boiler blowdown may be discharged offsite without treatment. Other waste generated at these facilities include power plant wastes and wastewaters, wastewater from sealing wells, sanitary wastes, and miscellaneous other wastewaters collected in drips and drains.

(3) Solution Mining—Evaporation.

(a) Industrial Activities—Another form of solution mining uses evaporation and crystallization of saline waters to produce minerals. Potash, soda, borate, and other minerals, are produced from naturally occurring fluids such as sea water, or from evaporite mineral deposits such as western lake brines. Brines are typically pumped from beneath the crystallized surface of a lake and processed by evaporation and crystallization. Recovered salts are washed, dried and packaged for shipment.

(b) Significant Materials/Materials Management Practices—Significant materials associated with these facilities include raw material piles, evaporation ponds, and residual brines consisting of salts and end liquors, including various added process wastewaters. Residual brines generated may be left in solar

evaporation ponds or dissolved and returned to the lake or injection wells.

d. Underground Mining. Underground mining techniques are used to access mineral deposits located too far underground to access economically from the surface. Though typically a more expensive form of extraction, advantages to underground mining operations include year-round operation, less noise (applicable to facilities located near residential areas), and less surface land disturbance. While most nonmetallic minerals are extracted from surface operations, some minerals existing in bedded or other sedimentary deposits may be accessed by underground extraction techniques. Potash, salt, soda, and borate minerals, as well as chemical and fertilizer minerals, are some of the minerals extracted using this mining method.

(1) Industrial Activities/Significant Materials. Industrial activities that may be associated with storm water discharges include: loading/unloading activities; haul roads; products and materials storage; waste piles; and processing activities. Exposed materials associated with surface beneficiation and processing facilities at underground mines are similar to those associated with open pit, open face, and quarrying facilities.

(2) Materials Management Practices. Materials management practices for significant materials at the surface of underground mining facilities are similar to those materials management practices used at open pit, open face, and quarrying operations.

e. Inactive Mine Sites. Inactive mineral mining and processing operations are those where industrial activities are no longer occurring. When active, mineral extraction could have occurred from open pits or open face mines, solution mines, dredging operations, or underground mines. These sites are included in this section because significant materials may remain onsite. These materials, if exposed, are potential sources of storm water pollutants. Until an inactive mineral mining and processing facility has been reclaimed under applicable State or Federal laws, the site is considered associated with an "industrial activity" and is subject to this section. Due to the seasonal nature of this industry, many mine sites can become temporarily inactive for extended periods.

2. Pollutants in Storm Water Discharges Associated With Mineral Mining and Processing Facilities

Impacts caused by storm water discharges from active and inactive mineral mining and processing operations will vary. Several factors influence to what extent significant materials from mineral mining and processing operations may affect water quality. Such factors include: geographic location; hydrogeology; the type of mineral extracted; the mineralogy of the extracted resource and the surrounding rock; how the mineral was extracted (e.g., quarrying/open face, dredging, solution, or underground mining operations); the type of industrial activities occurring onsite (e.g., extraction, crushing, washing, processing, reclamation etc.); the size of the operation; and type, duration, and intensity of precipitation events. Each of these and other factors will interact to influence the quantity and quality of storm water runoff. For example, air emissions (i.e., settled dust) may be a significant source of pollutants at some facilities while materials storage is a primary source at others. In addition, sources of pollutants other than storm water, such as illicit connections,[71] spills, and other improperly dumped materials, may increase the pollutant loadings discharged into waters of the United States.

The part 2 group application data requirements did not identify individual site characteristics which may be responsible for elevated or insignificant conventional pollutant loadings.

Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the mineral mining and processing industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: dimension stone, crushed stone mining and nonmetallic minerals mining (except fuels); sand and gravel mining; clay, ceramic, and refractory materials mining; chemical and fertilizer mineral mining. The tables below include data for the eight pollutants that all facilities were required to monitor for under Form 2F. The tables also list those parameters that EPA has determined merit further monitoring. A table has not been included for the following facilities because less than 3 facilities submitted data in these subsectors: clay, ceramic, and refractory materials mining; and chemical and fertilizer mineral mining facilities.

TABLE J–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY DIMENSION STONE AND CRUSHED PRODUCTS FACILITIES SUBMITTING PART II SAMPLING DATA[1] (mg/L)

Pollutant	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
Sample type	Grab	Comp[2]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	12	8	15	11	5.3	7.0	0.0	0.0	22.3	16.0	4.0	5.0	19.4	16.9	35.1	25.4
COD	12	8	16	10	37.0	46.4	0.0	0.0	140.0	140.0	33.0	44.0	136.1	159.6	243.3	264.6
Nitrate + Nitrite Nitrogen	8	2	10	4	0.59	0.08	0.00	0.00	3.00	0.30	0.10	0.00	2.89	.	7.56	.
Total Kjeldahl Nitrogen	12	8	15	10	1.56	1.91	0.10	0.34	5.71	6.60	0.67	1.15	6.12	6.47	19.70	15.09
Oil & Grease	11	N/A	15	N/A	1.7	N/A	0.0	N/A	10.0	N/A	0.0	N/A	9.8	N/A	27.4	N/A
pH	11	N/A	15	N/A	N/A	N/A	6.3	N/A	8.5	N/A	7.2	N/A	8.4	N/A	8.9	N/A
Total Phosphorus	12	8	15	10	0.70	0.24	0.00	0.00	7.06	0.71	0.20	0.17	3.12	1.18	10.36	2.89
Total Suspended Solids	12	8	15	10	2522	1020	0	0	27100	13300	124	636	27188	10541	217687	38624

[1] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.

[2] Composite samples.

[71] Illicit connections are contributions of unpermitted non-storm water discharges to storm sewers from any of a number of sources including sanitary sewers, industrial facilities, commercial establishments, or residential dwellings. The probability of illicit connections at mineral mining and processing facilities is low yet it still may be applicable at some operations.

TABLE J–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY SAND AND GRAVEL PRODUCTS FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	5	5	9	5	6.4	8.7	0.0	0.0	35.0	17.0	3.3	7.4	27.8	25.1	37.0	34.5
COD	7	5	8	5	145.9	102.8	0.0	12.0	464.0	155.0	54.2	118.0	635.5	441.8	1588.7	916.1
Nitrate + Nitrite Nitrogen	7	5	8	5	1.58	3.31	0.00	0.54	9.00	9.60	0.41	1.63	11.56	12.50	44.19	25.92
Total Kjeldahl Nitrogen	7	5	8	5	1.79	1.60	0.48	0.60	4.56	3.10	1.42	0.96	4.48	3.04	7.00	5.30
Oil & Grease	8	N/A	8	N/A	1.3	N/A	0.0	N/A	5.6	N/A	0.0	N/A	5.1	N/A	8.9	N/A
pH	9	N/A	10	N/A	N/A	N/A	8.0	N/A	10.0	N/A	8.2	N/A	10.8	N/A	12.2	N/A
Total Phosphorus	7	5	8	5	1.39	1.07	0.04	0.11	4.69	2.61	0.53	1.16	10.82	5.50	37.78	13.65
Total Suspended Solids	7	5	8	5	503	519	0	13	2400	1400	97	232	3861	4067	19143	15278

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

3. Options for Controlling Pollutants

There are two options for reducing pollutants in storm water discharges: end-of-pipe treatment and implementing Best Management Practices to prevent and/or eliminate pollution. Discharges from mining operations are in some ways dissimilar to other types of industrial facilities. Mining facilities are often in remote locations and may operate only seasonally or intermittently, yet need year-round controls because significant materials remain exposed to precipitation when reclamation is not completed. These characteristics make resource intensive end-of-pipe management controls less desirable.

A comprehensive storm water management program for a given plant may include controls from each of these categories. Development of comprehensive control strategies should be based on a consideration of site and facility plant characteristics.

a. End-of-Pipe Treatment. At many mineral mining and processing operations, it may be appropriate to collect and treat the runoff from targeted areas of the facility. This approach was taken with 12 industrial categories within the mineral mining and processing industry, subject to national effluent limitation guidelines for process water. Table J–4 identifies the effluent limitation guidelines for process water and for the mineral mining and processing sector. There are several areas where process wastewater guidelines influence the permitting strategy for storm water discharges. Whenever storm water and process wastewater combine, the storm water is treated as process wastewater. To meet the numeric effluent limitation for process water, most, if not all, facilities must collect and temporarily store onsite runoff from targeted areas of the plant. The effluent limitation guidelines do not apply to discharges whenever rainfall events, either chronic or catastrophic, cause an overflow of storage devices designed, constructed, and maintained to contain a 10-year, 24-hour storm. Most technology-based treatment standards, used for treating process waters, are based on relatively simple technologies such as settling of solids, neutralization, and drum filtration.

TABLE J–4.—Mineral Mining and Processing: Effluent Limitation Guidelines

SIC Code	Category	Subcategory	Effluent guidelines
1411	Dimension Stone	N/A	Reserved
1422	Crushed and Broken Limestone	N/A	For Facilities that recyle process waste water: pH 6.0–9.0.
1423	Crushed and Broken Granite		Mine dewatering discharges: pH 6.0–9.0.
1429	Crushed and Broken Stone, Not Elsewhere Classified.		In no case shall a pH limitation outside the range of 5.0–9.0 be permitted.
1442	Construction Sand and Gravel	N/A	For facilities that recycle process waste water: pH 6.0–9.0.
			Mine dewatering discharges: pH 6.0–9.0.
			In no case shall a pH limitation outside the range of 5.0–9.0 be permitted.
1446	Industrial Sand	N/A	All operations except HF flotation:
			TSS: Not to exceed 45mg/L maximum for any 1 day; Average over 30 days not to exceed 25 mg/L.
			pH Within range 6.0–9.0.
			For facilities using HF flotation:
			TSS: Not to exceed 0.046 mg/L maximum for any 1 day; Average over 30 days not to exceed 0.023 mg/L.
			Total Fluoride: Maximum for 1 day: 0.006 mg/L; Average over 30 days: 0.003 mg/L.
			pH Within range 6.0–9.0.
			Mine dewatering discharges:
			TSS: Maximum for 1 day: 45 mg/L; Average over 30 days: 25 mg/L.
			pH: Within range 6.0–9.0.
1455	Kaolin and Ball Clay	Ball Clay Kaolin	Reserved.
1459	Clay, Ceramic, and Refractory Minerals, Not Elsewhere Classified.	Bentonite Magnesite	No Discharge.

TABLE J–4.—Mineral Mining and Processing: Effluent Limitation Guidelines—Continued

SIC Code	Category	Subcategory	Effluent guidelines
	.....	Feldspar, Fire Clay, Attapulgite, and Montmovillonite, Kyanite, Shale and Common Clay Aplite.	Reserved.
1474	Potash, Soda, and Borate Minerals	Borax, Potash, Sodium Sulfate	No Discharge.
	.....	Trona, Rock Salt	Reserved.
1475	Phosphate Rock	N/A	Existing Sources.
	.....	.....	TSS: Maximum for any 1 day: 60 mg/L; Average over 30 days: 30 mg/L.
	.....	.....	pH: Within range 6.0–9.0.
	.....	.....	New sources, process generated wastewater and mine dewatering discharges:
	.....	.....	TSS: Maximum for any 1 day: 60 mg/L; Average over 30 days: 30 mg/L.
	.....	.....	pH: Within range 6.0–9.0.
1479	Chemical and Fertilizer Mineral Mining, Not Elsewhere Classified.	Barite, Fluorspar, Salines from Brine Lakes, Frasch Sulfur.	No Discharge.
	.....	Mineral Pigments, Lithium	Reserved.
1499	Miscellaneous Nonmetallic Minerals, Except Fuels.	Graphite	Process waste water and mine drainage subject to ELG:
	.....	.....	TSS: Maximum for any 1 day: 20 mg/L; Average over 30 days: 10 mg/L.
	.....	.....	Total Fe: Maximum for any 1 day: 2 mg/L; Average over 30 days: 1 mg/L.
	.....	.....	pH: Within range 6.0–9.0.
	.....	Gypsum, Asphaltic Minerals, Asbestos and Wollastonite, Diatomite, Jade, Tripoli (Dry Processes Only).	No discharge.
	.....	Garnet, Talc, Steatite, Soapstone, Pyrophyllite, Mica and Sericite.	Reserved.

End-of-pipe treatments are effective means to control process wastewaters because the types of pollutants and the volume of water to be treated are known. However, storm water discharges from mineral mining and processing facilities can be numerous, intermittent, and of various volumes. Channelization of all storm water that comes into contact with significant materials into a single treatment facility, or construction of numerous treatment devices for each discharge is too burdensome for the regulated community. Therefore, EPA believes that the most appropriate means of storm water management at mineral mining and processing facilities are BMPs. BMPs allow the mine site operator to choose a particular BMP that is best for the characteristics of a particular site and to control parameters of concern.

b. Best Management Practices. EPA believes that the most effective storm water management controls for limiting the offsite discharge of storm water pollutants from mineral mining and processing facilities are source reduction BMPs. Source reduction BMPs are methods by which discharges of contaminants are controlled with little or no required maintenance. Examples of these types of controls include source reduction diversion dikes, vegetative covers, and berms. Source reduction practices are typically (but not always) low in cost and relatively easy to implement. In some instances, more resource intensive treatment BMPs, including sedimentation ponds, may be necessary depending upon the type of discharge, types and concentrations of contaminants, and volume of flow.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, hydrogeology and the environmental setting of each facility, and volume and type of discharge generated. Each facility will be unique in that the source, type, and volume of contaminated storm water discharges will differ. In addition, the fate and transport of pollutants in these discharges will vary. EPA believes that the management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with mining activity.

The following six categories describe best management practice options for reducing pollutants in storm water discharges from mineral mining and processing operations: discharge diversions; drainage/storm water conveyance systems; runoff dispersion; sediment control and collection; vegetation/soil stabilization; capping of contaminated sources.

Typical land disturbance activities at mineral mining and processing sites include roads, open pits and quarries, topsoil, overburden, waste rock, subore, ore and product piles; materials storage, mill tailings, ponds and piles, as well as vehicle maintenance and storage areas. Because mineral mining and processing is largely a land disturbance activity, BMPs that minimize erosion and sedimentation will be most effective if installed at the inception of operations and maintained throughout active operations and reclamation of the site. From the construction of access and haul roads to closure and reclamation activities, implementation of BMPs is often essential to minimizing long-term environmental impacts to an area.

Part 1 group application data indicate that several types of BMPs have been implemented at sampling facilities. Commonly used BMPs were sediment control and collection and discharge diversion devices. However, the group application process did not require a description of BMP locations and did not require applicants to describe the number of identical BMPs implemented

at each site. As a result, the effectiveness of BMPs for storm water management, at these facilities cannot be evaluated.

In addition, many of the BMPs listed by facilities may have been implemented as process wastewater treatment mechanisms and are not exclusively used for storm water management. For instance, 43 percent of the sampling subgroup reported using ponds for sediment control and collection. Since some facilities classified as SIC Code 14 are subject to process water effluent limitation guidelines, sedimentation ponds may have been implemented to meet the limit.

Because BMPs described in the part 1 data are limited, EPA is providing an overview of supplementary BMPs for use at mineral mining and processing facilities. However, due to the site-specific nature of facilities within this sector, BMPs cited do not preclude the use of other viable BMP options. Table J–5 summarizes BMP options as they apply to land disturbance activities at mineral mining and processing facilities. Sources of BMP information include: "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990; "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices," EPA, September, 1992 (EPA 832–R–92–006); "Best Management Practices for Mining in Idaho," Idaho Department of Lands, November 1992; and "Erosion & Sediment Control Handbook," Goldman et al., McGraw-Hill Book Company, 1986.

TABLE J–5.—SUMMARY OF MINE AREAS AND APPLICABLE BEST MANAGEMENT PRACTICES

Land-disturbed area	Discharge diversions	Conveyance systems	Runoff dispersion	Sediment control & collection	Vegetation	Containment
Haul Roads and Access Roads.	Dikes, Curbs, Berms.	Channels, Gutters, Culverts, Rolling Dips, Road Sloping, Roadway Water Deflectors.	Check Dams, Rock Outlet Protection, Level Spreaders, Stream Alteration, Drop Structures.	Gabions, Riprap, Native Rock Retaining Walls, Straw Bale Barriers, Sediment Traps/Catch Basins, Vegetated Buffer Strips.	Seeding, Willow Cutting Establishment.	
Pits/Quarries or Underground Mines.	Dikes, Curbs, Berms.	Channels, Gutters	Serrated Slopes, Benched Slopes, Contouring, Stream Alteration.	Sediment Settling Ponds, Straw Bale Barrier, Siltation Berms.	Seeding	Plugging and Grouting
Overburden, Waste Rock and Raw Material Piles.	Dikes, Curbs, Berms.	Channels, Gutters	Serrated Slopes, Benched Slopes, Contouring, Stream Alteration.	Plastic Matting, Plastic Netting, Erosion Control Blankets, Mulch-straw, Compaction, Sediment/Settling Ponds, Silt Fences, Siltation Berms.	Topsoiling, Seedbed Preparation, Seeding.	Capping
Reclamation	Dikes, Curbs, Berms.	Channels, Gutters	Check Dams, Rock Outlet Protection, Level Spreaders, Serrated Slopes, Benched Slopes, Contouring, Drain Fields, Stream Alteration, Drop Structures.	Gabions, Riprap, and Native Rock Retaining Walls, Biotechnical Stabilization, Straw Bale Barriers, Sediment Traps/Catch Basins, Vegetative Buffer Strips, Silt Fences, Siltation Berms, Brush Sediment Barriers.	Topsoiling, Seedbed Preparation, Seeding, Willow Cutting Establishment.	Capping, Plugging and Grouting

Haul Roads and Access Roads—Placement of haul roads or access roads should occur as far as possible from natural drainage areas, lakes, ponds, wetlands or floodplains where soil will naturally be less stable for heavy vehicle traffic. If a haul road must be constructed near water, as little vegetation as possible should be removed from between the road and the waterway, as vegetation is a useful buffer against erosion and is an efficient sediment collection mechanism. The width and grade of haul or access roads should be minimal and should be designed to match natural contours of the area. Construction of haul roads should be supplemented by BMPs that divert runoff from road surfaces, minimize erosion, and direct flow to appropriate channels for discharge to treatment areas.

Pits or Quarries—Excavation of a pit or quarry must be accompanied by BMPs to minimize impacts to area surface waters. As discussed in construction of haul roads, as little vegetation as possible should be removed from these areas during excavation activities to minimize

exposed soils. In addition, stream channels and other sources of water that may discharge into a pit or quarry should be diverted around that area to prevent contamination.

Overburden, Waste Rock, and Raw Material Piles—Overburden, topsoil, and waste rock, as well as raw material and intermediate and final product stockpiles should be located away from surface waters and other sources of water, and from geologically unstable areas. If this is not practicable, surface water should be diverted around the piles. As many piles as possible should be revegetated (even if only on a temporary basis). At closure, remaining units should be reclaimed.

BMPs can be used to control total suspended solids levels in runoff from unvegetated areas. These can include sediment/settling ponds, check dams, silt fences, and straw bale barriers.

Reclamation Activities—When a mineral deposit is depleted and operations cease, a mine site must be reclaimed according to appropriate State or Federal standards. Closure activities typically include restabilization of any disturbed areas such as access or haul roads, pits or quarries, sedimentation ponds or work-out pits, and any remaining waste piles. Overburden and topsoil stockpiles may be used to fill in a pit or quarry (where practical). Recontouring and vegetation should be performed to stabilize soils, and prevent erosion.

Major reclamation activities such as recontouring roads and filling in a pit or quarry can only be performed after operations have ceased. However, reclamation activities such as stabilization of banks and reseeding and revegetation should be implemented in mined out portions, or inactive areas of a site as active mining moves to new areas.

EPA recognizes that quarries are frequently converted into reservoirs or recreational areas, after the mineral deposit is depleted. However, this does not preclude the reclamation of disturbed areas above the quarry rim.

(1) Discharge Diversions. Discharge diversions provide the first line of defense in preventing the contamination of discharges and the subsequent contamination of receiving waters of the United States. Discharge diversions are temporary or permanent structures installed to divert flow, store flow, or limit storm water runon and runoff.

These diversion practices have several objectives. First, diversion structures can be designed to prevent otherwise uncontaminated (or less contaminated) water from crossing disturbed areas or areas containing significant amounts of contaminated materials, where contact may occur between runon and significant materials. These source reduction measures may be particularly effective for mineral mining and processing operations to prevent runon of uncontaminated discharges from contacting exposed materials and/or reduce the flow across disturbed areas, thereby lessening the potential for erosion. Second, diversion structures can be used to collect or divert waters for later treatment if necessary. The usefulness of these control measures are limited by such factors as the size of the area to be controlled and the type and nature of materials exposed and precipitation events.

Diversion dikes, curbs, and berms are temporary or permanent diversion structures that prevent runoff from passing beyond a certain point, and divert runoff away from its intended path. Dikes, curbs or berms may be used to surround and isolate areas of concern at mineral mining and processing sites, diverting flow around piles of overburden, waste rock, and storage areas, to minimize discharge contact with contaminated materials and to limit discharges of contaminated water from confined areas.

(2) Drainage/Storm Water Conveyance Systems. Drainage or storm water conveyance systems can provide either a temporary or a permanent management practice which functions to channel water away from eroded or unstabilized areas, convey runoff without causing erosion, and/or carry discharges to more stabilized areas. The use of drainage systems as a permanent measure may be most appropriate in areas with extreme slopes, areas subject to high velocity runoff, and other areas where the establishment of substantial vegetation is infeasible or impractical. For instance, several BMPs described below may be useful storm water and erosion control methods applicable to road construction and maintenance activities.

Channels or Gutters—Channels or gutters collect storm water runoff and direct its flow. Like diversion systems, channels or gutters may act to divert runoff away from a potential source of contamination, but may also be used to channel runoff to a collection and/or treatment area including settling ponds, basins or work-out pits.

Open Top Box Culverts, and Waterbars—These structures are temporary or permanent structures that divert water from a roadway surface. Open top box culverts may be used on steeply graded, unpaved roads in place of pipe culverts to divert surface runoff and flow from inside ditches onto the downhill slope of a road. These structures are typically made of wood and should periodically be monitored and repaired if necessary.

Waterbars are berms built by a dozer or by hand to a one to two foot height. They serve to extend the entire width of the road, with a downslope angle between 30 and 40 percent. Waterbars are kept open at a discharge end to allow water to flow away from the road and require little maintenance. These berms may be used as temporary or permanent structures.

Rolling Dips and Road Sloping—Rolling dips and road sloping are permanent water diversion techniques installed using natural contours of the land during road construction. These BMPs prevent water accumulation on road surfaces and divert surface runoff toward road ditches which then convey the storm water to ponds or other management areas.

Roadway Surface Water Deflector—A roadway surface water deflector is another technique to prevent accumulation of water on road surfaces. The structure uses a conveyor belt sandwiched between two pieces of treated wood and placed within the road to deflect water. This is a useful technique for steeply graded, unpaved roads.

Culverts—Culverts are permanent surface water diversion mechanisms used to convey water off of, or underneath a road. Made of corrugated metal, they must extend across the entire width of the road and beyond the fill slope. Additional erosion control mechanisms may need to be installed at the discharge end of the culvert.

(3) Runoff Dispersion. Drainage systems are most effective when used in conjunction with runoff dispersion devices designed to slow the flow of water discharged from a site. These devices also aid storm water infiltration into the soil and flow attenuation. Some examples of velocity dissipation devices include check dams, rock outlet protection, level spreaders, and serrated and benched slopes.

Check Dams—Check dams are small temporary dams constructed across swales or drainage ditches to reduce the velocity of runoff flows thereby reducing erosion and failure of the swale or ditch. This slowing reduces erosion and gullying in the channel and allows sediments to settle.

Check dams may be installed in small temporary or permanent channels where vegetation of the channel lining is not feasible and where there is danger of erosion. These may be areas where installation of nonerosive liners are not cost effective.

Check dams diminish the need for more stringent erosion control practices in the drainage ditch since they decrease runoff velocity. When constructing check dams, the use of overburden or waste rock should be avoided where there is the potential for contamination.

Rock Outlet Protection—Rock protection placed at the outlet end of culverts, channels, or ditches reduces the depth, velocity, and destructive energy of water such that the flow will not erode the downstream reach. The use of some materials (e.g., mine waste rock or ore) should be avoided where contamination may occur. As with check dams, rock outlet protection may also be used as a source reduction treatment mechanism by using rocks containing limestone or other alkaline materials to neutralize acidic discharges.

Level Spreaders—Level spreaders are outlets for dikes and diversions consisting of an excavated depression constructed at zero grade across a slope. Level spreaders diffuse storm water point sources and release it onto areas stabilized by existing vegetation.

Serrated Slopes and Benched Slopes—These runoff dispersion methods break up flow of runoff from a slope, decreasing its ability to erode. Serrated and benched slopes provide flat areas that allow water to infiltrate, and space for vegetation to grow and reinforce soils. Serrated slopes are equipped with small steps, from one to two feet of horizontal surface exposed on each step. Benched slopes have larger steps with vertical cuts between two and four feet high.

Contouring—Surface contouring is the establishment of a rough soil surface amenable to revegetation through creating horizontal grooves, depressions, or steps that run with the contour of the land. Slopes may also be left in a roughened condition to reduce discharge flow and promote infiltration. Surface roughening aids in the establishment of vegetative cover by reducing runoff velocity and giving seed an opportunity to take hold and grow.

This technique is appropriate for all slopes steeper than 3:1 in order to facilitate stabilization of the slope and promote the growth of a vegetative cover. Once areas have been contoured, they should be seeded as quickly as possible.

Drain Fields—Drain fields are used to prevent the accumulation of water and/or ground water at a site by diverting infiltrating sources through gravity flow or pumping. Typically filled with porous, permeable materials such as graded rock, or perforated pipe, and lined with geotextile fabric, these mechanisms are useful underneath significant materials, reducing the amount of water that ultimately comes into contact with significant materials.

Stream Alteration—Altering or channelizing the path of a stream to bypass all or some disturbed areas on a site, allows additional mining activities and avoids contamination of stream water by disturbed lands. This practice is complicated, however, by the need to restore the channel when mining operations end.

Drop Structures—Drop structures are large angular rocks placed in a V-shaped pattern to slow the velocity of storm water runoff. These structures are typically reinforced by logs or large rocks imbedded in the streambanks.

(4) Sediment Control and Collection. Sediment control and collection limits movement and retains sediments from being transported offsite. Several structural collection devices have been developed to remove sediment from runoff before it leaves the site. Several methods of removing sediment from site runoff involve diversion mechanisms previously discussed, supplemented by a trapping or storage device. Structural practices typically involve filtering diffuse storm water flows through temporary structures such as straw bale dikes, silt fences, brush barriers or vegetated areas.

Structural practices are typically low in cost. However, structural practices require periodic removal of sediment to remain functional. As such, they serve as more active-type practices which may not be appropriate for permanent use at inactive mines. However, these practices may be effectively used as temporary measures during active operation and/or prior to the final implementation of permanent measures.

(a) Temporary Treatments

Plastic Matting, Plastic Netting, and Erosion Control Blankets—These BMPs are used to protect bare soils and control dust and erosion. Mats and blankets help to promote vegetative growth by maintaining moisture and heat within the soil. Plastic matting and netting improve slope stabilization and may be used as a permanent treatment to encourage grass growth. Plastic netting is a more effective material to use while promoting growth of vegetation as it permits sunlight to penetrate through to the soils. Erosion control blankets also stabilize slopes and control erosion. These blankets may be made of jute or plastic netting which are more expensive than straw.

Mulch-straw or Wood Chips—Mulches and wood chips are useful temporary covers for bare or seeded soils with an erosion control effectiveness rating of 75 to 98 percent.[72] Like matting, mulch-straw or wood chips help soils retain moisture and warmth to promote vegetative growth. Used on slopes and/or in combination with nylon netting, these materials may prevent erosion by wind and water. Over time, however, the mulch cover will decrease in effectiveness.

Compaction—Soil compaction using a roller or other heavy equipment increases soil "strength" by increasing its density. More dense soil is less prone to erosion and long-term soil settlement. The surface of compacted soils should be roughed and seeded or vegetated to increase its durability.

(b) Permanent Treatments

Sediment/Settling Ponds—Sediment ponds function as sediment traps by containing runoff for long periods of time, allowing suspended solids to settle. These structures can achieve a high removal rate of sediment for both process wastewater and storm water discharges. Sediment/settling ponds are easily constructed and require minimal maintenance. Their flexibility to treat both process wastewater and storm water makes the use of ponds a desirable treatment for discharges from mineral mining and processing facilities. Of course, site characteristics must be such that some or all discharges can be practically channeled to a centralized area for treatment. Where this is not practical, the cost of constructing multiple sediment ponds may become prohibitive. In addition, periodic dredging may be required in order to maintain the capacity of these ponds.

Discharge ponds may also be designed to act as surge ponds which are designed to contain storm surges and then completely drain in about 24 to 40 hours, and remain dry during times of no rainfall. They can provide pollutant removal efficiencies that are similar to those of detention ponds.[73] Storm surge ponds are typically designed to provide both water quality and water quantity (flood control) benefits.[74]

Gabions, Riprap, and Native Rock Retaining Walls—These BMPs are all forms of slope stabilization. Gabions consist of rocks (riprap) contained by rectangular wire boxes or baskets for use as permanent erosion control structures.

[72] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990.

[73] "Urban Targeting and BMP Selection," EPA, Region V, November 1990.

[74] "Urban Surface Water Management," Walesh, S.G., Wiley, 1989.

Riprap consists of loose rocks placed along embankments to prevent erosion. Native rock retaining walls are another form of slope stabilization, with walls up to five feet in height, constructed from native rock to reinforce a steep slope.

Biotechnical Stabilization—Biotechnical stabilization uses live brush imbedded in the soils of a steep slope to prevent erosion. This method relies on the premise that the imbedded vegetation will eventually root and help stabilize the slope.

Straw Bale Barrier—Straw bales may be used as temporary berms, barriers, or diversions; capturing sediments, filtering runoff. When installed and maintained properly, these barriers remove approximately 67 percent of the sediment load.[75] These barriers are applicable across small swales, in ditches, and at the toe of bare slopes where there is a temporary large volume of sediment laden runoff.

Sediment Traps or Catch Basins—These temporary or permanent structures are useful for catching and storing sediment laden storm water runoff and are particularly useful during construction activities to contain runoff. The effectiveness of these BMPs is better in smaller drainage basin areas. Sediment traps are less than 50 percent effective in removing sediment from storm water runoff.[76]

Vegetated Buffer Strips—The installation of vegetated buffer strips will reduce runoff and prevent erosion at a removal efficiency rate of 75 to 99 percent depending upon the ground cover.[77] In addition, vegetated buffer strips catch and settle sediment contained in the storm water runoff prior to reaching receiving waters.

Silt Fence/Filter Fence—A low fence made of filter fabric, wire and steel posts, should be used on small ephemeral drainage areas where storm water collects or leaves a mine site. Silt fences remove 97 percent of the sediment load and are easier to maintain and remove without creating lasting impacts to the environment.[78] Silt and filter fences need to be inspected periodically and may not be as effective as straw bales, since fabric may become clogged with fine particles preventing water flow.

Silt fences may have limited applicability for large areas. They are most effective for use in a small drainage areas. These fences may also be used in conjunction with nonstructural practices to maintain the integrity of soil prior to the establishment of vegetation.

Siltation Berms—Siltation berms are typically placed on the downslope side of a disturbed area to act as an impermeable barrier for the capture and retention of sediments in surface water runoff. Plastic sheeting is typically used to cover the berm. The berm and the plastic sheeting may require periodic maintenance and repair.

Brush Sediment Barriers—Brush barriers are temporary sediment barriers composed of tree limbs, weeds, vines, root mat, soil, rock and other cleared materials placed at the toe of a slope. A brush barrier is effective only for small drainage areas, usually less than 1/4 acre, where the slope is minimal.

Brush barriers do not function as permanent barriers since over time the barrier itself will degrade. This BMP is most effective when located at the toe of a slope of an area in which vegetation is being grown or during temporary operations. The brush barriers remove any excessive sediment generated by erosion prior to the establishment of vegetation.

(5) Vegetation Practices. Vegetation practices involve establishing a sustainable ground cover by permanent seeding, mulching, sodding, and other such practices. A vegetative cover reduces the potential for erosion of a site by: absorbing the kinetic energy of raindrops which would otherwise impact soil; intercepting water so it can infiltrate into the ground instead of running off and carrying contaminated discharges; and by slowing the velocity of runoff to promote onsite deposition of sediment. Vegetative controls are often the most important measures taken to prevent offsite sediment movement and can provide a six-fold reduction in the discharge of suspended sediment levels.[79] Permanent seeding has been found to be 99 percent effective in controlling erosion for disturbed land areas.[80] Many States require that topsoil be segregated from other overburden for use during reclamation. While stored, topsoil stockpiles should be vegetated. This temporary form of vegetation can often be used for other piles of stored materials and for intermittent/seasonal operations.

Typically, the costs of vegetative controls are low relative to other discharge mitigation practices. Given the limited capacity to accept large volumes of runoff and potential erosion problems associated with large concentrated flows, vegetative controls should typically be used in combination with other management practices. These measures have been documented as particularly appropriate for mining sites.

Topsoiling, Seedbed Preparation—The addition of a layer of topsoil or plant growth material provides an improved soil medium for plant growth. Seedbed preparation may include the addition of topsoil ingredients to be mixed in with soils used for seedbed preparation. Ripping, dicing, and mixing soils promotes weed control and aerates the soil, encouraging seedling growth.

Broadcast Seeding and Drill Seeding—Seeding and vegetative planting are methods used to revegetate an area. Broadcast seeding spreads seeds uniformly, by hand or machine, to steep sloped or rocky areas, flat surfaces, and areas with limited access. Drill seeding is performed using a rangeland drill seeder and may not be used on rocky surfaces. Drill seeding is more suitably performed on flat, nonrocky surfaces, where the machine can insert seeds into the soil.

Willow Cutting Establishment—Willow cutting establishment describes a method of soil stabilization useful for stream banks and other areas located adjacent to water. Similar to biotechnical stabilization, willow cuttings are used to promote growth in an area needing stabilization. Willow cuttings are typically used to reinforce a streambank or other moist area. Willow cuttings require a great deal of moisture and must be planted in areas that remain moist for long periods in order to take hold and grow.

(6) Capping. In some cases, the elimination of a pollution source through capping contaminant sources may be the most cost effective control measure for discharges from inactive mineral mining and processing operations. Depending on the type of management practices chosen, the cost to eliminate the pollutant source may be very high. Once completed, however, maintenance costs will range from low to nonexistent.

Capping or sealing of waste materials is designed to prevent infiltration, as well as to limit contact between discharges and potential sources of

[75] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–14.

[76] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–26.

[77] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–7.

[78] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–15.

[79] "Performance of Current Sediment Control Measures at Maryland Construction Sites," January 1990, Metropolitan Washington Council of Governments, page X.

[80] "Sediment and Erosion Control: An Inventory of Current Practices—Draft," EPA, April 20, 1990, page IV–4.

contamination. Ultimately, capping should reduce or eliminate the contaminants in discharges. In addition, by reducing infiltration, the potential for seepage and leachate generation may also be lessened.

The use of this practice depends on the level of control desired, the materials available, and cost considerations. Many common liners may be effective including common soil, clay, and/or synthetic liners. Generally, soil liners will provide appreciable control for the lowest cost. Synthetic or clay liners may be appropriate to cover materials known to have a significant potential to impact water quality.

4. Storm Water Pollution Prevention Plan Requirements

Specific requirements for a pollution prevention plan for mineral mining and processing facilities are described below. These requirements must be implemented in addition to the common pollution prevention plan provisions discussed previously.

Under the description of potential pollution services, each storm water pollution prevention plan must describe activities, materials, and physical features of the facility that may contribute to storm water runoff or, during periods of dry weather, result in dry weather flows and mine pumpout. This assessment of storm water pollution will support subsequent efforts to identify and set priorities for necessary changes in materials, materials management practices, or site features, as well as aid in the selection of appropriate structural and nonstructural control techniques. Plans must describe the following elements:

The plan must contain a map of the site that shows the pattern of storm water drainage, structural features that control pollutants in storm water runoff[81] and process wastewater discharges, surface water bodies (including wetlands), places where significant materials[82] are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. The map also must show areas where the following activities take place: fueling, vehicle and equipment maintenance and/or cleaning, loading and unloading, material storage (including tanks or other vessels used for liquid or waste storage), material processing, and waste disposal, haul roads, access roads, and rail spurs. In addition, the site map must also indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls (e.g. storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

Facility operators are required to carefully conduct an inspection of the site and related records to identify significant materials that are or may be exposed to storm water. The inventory must address materials that within 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit have been handled, stored, processed, treated, or disposed of in a manner to allow exposure to storm water. Findings of the inventory must be documented in detail in the pollution prevention plan. At a minimum, the plan must describe the method and location of onsite storage or disposal; practices used to minimize contact of materials with rainfall and runoff; existing structural and nonstructural controls that reduce pollutants in storm water runoff; existing structural controls that limit process wastewater discharges; and any treatment the runoff receives before it is discharged to surface waters or a separate storm sewer system. The description must be updated whenever there is a significant change in the types or amounts of materials, or material management practices, that may affect the exposure of materials to storm water.

The description of potential pollution sources culminates in a narrative assessment of the risk potential that those sources of pollution pose to storm water quality. This assessment should clearly point to activities, materials, and physical features of the facility that have a reasonable potential to contribute significant amounts of pollutants to storm water. Any such activities, materials, or features must be addressed by the measures and controls subsequently described in the plan. In conducting the assessment, the facility operator must consider the following activities: loading and unloading operations; outdoor storage activities; outdoor processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The assessment must list any significant pollution sources at the site and identify the pollutant parameter or parameters (i.e., total suspended solids, total dissolved solids, etc.) associated with each source.

Under the measures and controls section of the pollution prevention plan, the permittee must evaluate, select, and describe the pollution prevention measures, best management practices (BMPs), and other controls that will be implemented at the facility. The permittee must assess the applicability of the following BMPs for their site: discharge diversions, drainage/storm water conveyance systems, runoff dispersions, sediment control and collection mechanisms, vegetation/soil stabilization, and capping of contaminated sources. In addition, BMPs include processes, procedures, schedules of activities, prohibitions on practices, and other management practices that prevent or reduce the discharge of pollutants in storm water runoff.

The pollution prevention plan must discuss the reasons each selected control or practice is appropriate for the facility and how each will address the potential sources of storm water pollution. The plan also must include a schedule specifying the time or times during which each control or practice will be implemented. In addition, the plan should discuss ways in which the controls and practices relate to one another and, when taken as a whole, produce an integrated and consistent approach for preventing or controlling potential storm water contamination problems.

Under the preventive maintenance requirements of the pollution prevention plan, permittees are required to develop a preventive maintenance program that includes regular inspections and maintenance of storm water BMPs. The maintenance program requires periodic removal of debris from discharge diversions and conveyance systems. These activities should be conducted in the spring, after snowmelt, and during the fall season. Permittees already controlling their storm water runoff frequently use impoundments or sedimentation ponds. Maintenance schedules for these ponds must be provided in the pollution prevention plant.

Under the inspection requirements of the pollution prevention plan, operators

[81] Nonstructural features such as grass swales and vegetative buffer strips also should be shown.

[82] Significant materials include, "* * * but [are] not limited to: raw materials, fuels, materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; * * * hazardous substances designated under section 101(14) of CERCLA; any chemical facilities required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharge." (40 CFR 122.26(b)(12)) Significant materials commonly found at mining facilities include: overburden; raw materials; waste rock piles; tailings; petroleum based products; solvents and detergents; and manufactured products, waste materials or by-products used or created by the facility.

of active facilities are required to conduct quarterly visual inspections of BMPs. Temporary and permanently inactive operations are required to perform annual inspections. Active sites have more frequent inspections than inactive sites because members of the pollution prevention team will be onsite, and the fact that they are active means there is a greater potential for pollution. The inspections shall include: (1) An assessment of the integrity of storm water discharge diversions, conveyance systems, sediment control and collection systems, and containment structures; (2) visual inspections of vegetative BMPs, serrated slopes, and benched slopes to determine if soil erosion has occurred; and (3) visual inspections of material handling and storage areas and other potential sources of pollution for evidence of actual or potential pollutant discharges of contaminated storm water.

The inspection must be made at least once in each designated period during daylight hours. Inspections for active facilities shall be conducted in each of the following periods: January through March; April through June; July through September; October through December.

EPA believes that this quick and simple description will allow the permittee to assess the effectiveness of his/her plan on a regular basis at very little cost. The frequency of this visual inspection will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow up procedures must be used to ensure that appropriate actions are taken in response to the inspections. The visual inspection is intended to be performed by facility staff. This hands-on inspection will also enhance the staff's understanding of the storm water problems on that site and effects on the management practices that are included in the plan.

Under the recordkeeping and internal reporting procedures of the pollution prevention plan, the permittee must describe procedures for developing and retaining records on the status and effectiveness of plan implementation. The plan must address spills, monitoring, and BMP inspection and maintenance activities. Ineffective BMPs must be reported and the date of their corrective action noted.

Under the sediment and erosion control requirements of the pollution prevention plan, permittees must indicate the location and design for proposed BMPs to be implemented prior to land disturbance activities. For sites already disturbed but without BMPs, the permittee must indicate the location and design of BMPs that will be implemented. The permittee is required to indicate plans for grading, contouring, stabilization, and establishment of vegetative cover for all disturbed areas, including road banks. Reclamation activities must continue until final closure notice has been issued.

According to the pollution prevention runoff requirements, the permittee must evaluate the appropriateness of each storm water BMP that diverts, infiltrates, reuses, or otherwise reduces the discharge of contaminated storm water. In addition, the permittee must describe the storm water pollutant source area or activity (i.e., loading and unloading operations, raw material storage piles etc.) to be controlled by each storm water management practice.

a. Comprehensive Site Compliance Evaluation. The storm water pollution prevention plan must describe the scope and content of comprehensive site evaluations that qualified personnel will conduct to (1) confirm the accuracy of the description of potential pollution sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of this section. Comprehensive site compliance evaluations should be conducted once a year. When annual comprehensive site compliance evaluations are shown in the plan to be impractical for inactive mining sites, due to remote location and inaccessibility, site evaluations must be conducted at least once every 3 years. The individual or individuals who will conduct the evaluations must be identified in the plan and should be members of the pollution prevention team. Evaluation reports must be retained for at least 3 years after the date of the evaluation.

Based on the results of each evaluation, the description of potential pollution sources, and measures and controls, the plan must be revised as appropriate within 2 weeks after each evaluation. Changes in the measures and controls must be implemented on the site in a timely manner, and never more than 12 weeks after completion of the evaluation.

5. Numeric Effluent Limitation

Except as discussed below, there are no additional numeric effluent limitations under this section beyond those stated in section V.B of today's permit. Part XI.J.4. of today's permit establishes numeric effluent limitations for mine dewatering discharges that are composed entirely of storm water or ground water seepage from construction sand and gravel, industrial sand and crushed stone mines that are located in Region VI (the States of Louisiana, New Mexico, Oklahoma, and Texas). Discharges from these areas may not exceed a maximum TSS concentration of 45 mg/L for any one day or 25 mg/L for the average of daily values for 30 consecutive days. The pH of the discharges from these areas must be within the range of 6.0 to 9.0. These effluent limitations are in accordance with the Crushed Stone, Construction Sand and Gravel, and Industrial Sand Subcategories of the Mineral Mining and Processing Point Source Categories (40 CFR 436.20, 436.30 and 40 CFR 436.40). These limitations represent the degree of effluent reduction attainable by the application of best practicable control technology and best conventional pollutant control technology. Dischargers subject to these numeric effluent limitations must be in compliance with the limits upon commencement of and for the entire term of this permit.

6. Monitoring and Reporting Requirements

a. Monitoring Requirements. Under the revised methodology for determining pollutants of concern in the various industrial categories, dimension and crushed stone and nonmetallic minerals (except fuels) mining and sand and gravel mining facilities are required to monitor for the pollutants listed in the applicable table below (Table J–6 or J–7). The pollutants listed in this table were found to be above benchmark levels. EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

TABLE J–6.—MONITORING REQUIREMENTS FOR DIMENSION AND CRUSHED STONE AND NONMETALLIC MINERALS (EXCEPT FUELS) (MG/L)

Pollutant of concern	Monitoring cut-off concentration
Total suspended solids	100 mg/L.

TABLE J–7.—MONITORING REQUIREMENTS FOR SAND AND GRAVEL MINING

Pollutants of concern	Monitoring cut-off concentration
Total suspended solids.	100 mg/L.
Nitrate plus Nitrite Nitrogen.	0.68 mg/L.

At a minimum, storm water discharges from dimension and crushed stone, sand and gravel and nonmetallic mineral (except fuels) mining must be monitored quarterly during the second year of permit coverage. Samples must be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in the applicable table (Table J–6 or J–7). If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

If the average concentration for a parameter is less than or equal to the cut-off concentration, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. The schedule for monitoring is presented in Table J–8.

TABLE J–8.—SCHEDULE OF MONITORING

2nd year of permit coverage.	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period.
4th year of permit coverage.	• If average concentration is greater than the value listed in Table J–6 or J–7, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table J–6 or J–7, then no further sampling is required for that parameter. • Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table J–6 or J–7. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will be used to reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative certification described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports described in paragraph (*2*) below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity, and that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in lieu of monitoring reports required under paragraph (*2*) below. The permittee is required to complete any and all sampling until the exposure is eliminated. If the facility is reporting for a partial year, the permittee must specify the date exposure was eliminated. If the permittee is certifying that a pollutant was present for part of the reporting period, nothing relieves the permittee from the responsibility to sample that parameter up until the exposure was eliminated and it was determined that no significant materials remained. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

(2) Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report Form must be submitted to the Director per storm event sampled. For facilities conducting monitoring beyond the minimum requirements, an additional signed Discharge Monitoring Report Form must be filed for each analysis. The permittee must include a measurement or estimate of the total precipitation, volume of runoff, and peak flow rate of runoff for each storm event sampled.

(3) Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-

hour interval is representative for local storm events during the season when sampling is being conducted. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable, permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) Adverse Conditions. When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

B. Quarterly Visual Examination of Storm Water Quality. Mineral mining and processing facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) must be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) or when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes,electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

EPA believes that between quarterly visual examinations, site compliance evaluations and the limited analytical monitoring required of the specified subsectors, potential sources of contaminants can be recognized, addressed, and then controlled with BMPs. In determining the monitoring requirements, EPA considered the nature of the industrial activities and significant materials exposed at these sites and performed a review of data provided in Part 2 group applications.

c. Compliance Monitoring Requirements. Today's permit requires permittees with mine dewatering discharges from construction sand and gravel, industrial sand, and crushed stone mine facilities to monitor for the presence of TSS and pH. These monitoring requirements are necessary to evaluate compliance with the numeric effluent limitation established for these discharges. Monitoring shall be performed quarterly upon a minimum of one grab sample. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. Monitoring results shall be submitted on signed Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the month following collection of the sample. Facilities which discharge through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must also submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system.

Alternative Certification provisions described in Section XI.J.5 do not apply to facilities subject to compliance monitoring requirements in this section. Compliance monitoring is required at least annually for discharges subject to effluent limitations. Therefore, EPA cannot permit a facility to waive compliance monitoring.

Construction sand and gravel, industrial sand and crushed stone mining facilities are not required to collect and analyze separate samples for the presence of TSS to satisfy the Compliance Monitoring requirements of Section XI.J.5.d. during a year in which the facilities have collected and analyzed samples for TSS in accordance with the Analytical Monitoring requirements of Section XI.J.5.a. The results of all TSS Analytical Monitoring analyses may also be reported as Compliance Monitoring results in accordance with Section XI.J.5.d.(3) where the monitoring methodologies are consistent.

7. Definitions

"Overburden" means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring surface materials that are not disturbed by mining operations.

"Overflow" means a precipitation induced overflow of a facility that is designed, constructed, and maintained to contain, or treat, the volume of wastewater which would result from 10-year, 24-hour precipitation events.

Storm Water Discharges Associated With Industrial Activity from Hazardous Waste Treatment, Storage, or Disposal Facilities

Industry Profile

On November 16, 1990 (55 FR 47990), EPA promulgated the regulatory definition of "storm water discharge associated with industrial activity." This definition includes point source discharges of storm water from 11 categories of facilities, including "* * * (iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA * * *." Part XI.K. of today's permit only covers storm water discharges from facilities that treat, store, or dispose of hazardous wastes.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

Some industrial facilities that generate hazardous waste have onsite capacity to store, treat, and even dispose of their waste. Many hazardous waste generators, however, send their waste offsite to a treatment, storage, or disposal facility (TSDF). Generators of hazardous waste must arrange for a transporter who has obtained an EPA ID number to transport the generator's waste to a designated facility (i.e., a facility that is permitted under RCRA to receive and treat, store, or dispose of hazardous waste).

Once wastes are accepted by the TSDF, any number of activities may follow. For example, some wastes are disposed without any intervening storage or treatment, while other wastes are held in storage prior to treatment or disposal. Hazardous wastes are generally stored in containers and tanks, which are enclosed by a bermed area to prevent any releases to the environment from the storage units.

The processes for treating hazardous wastes can be divided into two major categories based on whether the waste is organic or inorganic in nature. Organic wastes are treated by destructive technologies, like incineration, whereas inorganic wastes are treated using fixation technologies, like stabilization, in which the hazardous constituents are immobilized in the residual matrix. Residuals from fixation processes are usually land-disposed where the stabilized constituents are much less likely to leach into the environment.

As mentioned above, some wastes are treated prior to disposal while others are disposed as-generated. Hazardous waste disposal units include landfills, surface impoundments, waste piles, and land treatment units. Such disposal units may have specific requirements under RCRA Subtitle D. Wastes are also disposed by being burned in incinerators. Some liquid hazardous wastes are underground-injected into deep wells regulated under the Underground Injection Control (UIC) program in 40 CFR Parts 144 to 148. The RCRA regulations governing the different types of hazardous waste treatment, storage, and disposal units are located in 40 CFR Part 264, Subparts I through O and Subpart W.

Hazardous wastes are also recycled at TSDFs. Recycling is considered a form of treatment, however, the recycling process itself is not generally regulated under RCRA. Recycling activities include reclamation, regeneration, reuse, burning for energy or materials recovery, and use in a manner constituting disposal (i.e., land application of hazardous waste or products containing hazardous waste).

2. Pollutants in Storm Water Discharges Associated With Hazardous Waste Treatment, Storage, or Disposal Facilities

Given the diversity and amount of hazardous wastes handled at TSDFs, pollutants in storm water discharges may vary considerably. Contaminated storm water discharges may result from precipitation coming in contact with spills or leaks of hazardous waste. TSDFs regulated under RCRA Subtitle C, however, are required to control much of their storm water runoff through secondary containment (e.g., secondary containment for tank systems; 40 CFR 264.193). When a spill of a listed hazardous waste occurs, for example, the spilled material and any storm water that comes into contact with the material is a hazardous waste under RCRA and must be cleaned up and managed in accordance with all applicable regulations.

In addition to the types of hazardous materials handled and the procedures for controlling runoff at a particular TSDF, several other factors influence to what extent significant materials from these types of facilities and processing operations can affect water quality. Such factors include: hydrology/geology; volume of wastes handled; extent of industrial activities at a TSDF (i.e., only storage, or storage plus treatment and disposal); and type, duration, and intensity of precipitation events. These and other factors will interact to influence the quantity and quality of storm water runoff. In addition, sources of pollutants other than storm water, such as illicit connections,[16] spills, and other improperly dumped materials, may increase the pollutant loadings discharged into waters of the United States.

Pollutants in storm water discharges from TSDFs may consist of, in the case of spills or leaks which are not properly contained or cleaned up, hazardous wastes and/or their constituents. 40 CFR Part 261 Subpart D contains the lists of hazardous wastes, and Appendix VII to Part 261 is a list of the hazardous constituents for which each of these wastes is listed.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at TSDFs facilities as a whole and not subdivide this sector. Therefore, Table K–1 lists data for selected parameters from facilities in the TSDF sector. These data include the eight pollutants that all facilities were required to monitor for under Form 2F.

TABLE K–1.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY HAZARDOUS WASTE TREATMENT STORAGE OR DISPOSAL FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant	No. of facilities		No. of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Sample type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	5	4	8	9	17.8	9.44	0.0	0.0	45.0	45.0	11.5	7.0	49.7	35.7	82.3	62.9
COD	5	4	8	9	117.6	51.9	12.0	10.0	500.0	131.0	56.5	45.0	419.2	158.9	910.3	285.8
Nitrate + Nitrite Nitrogen	4	4	9	9	0.46	0.39	0.15	0.07	0.79	0.67	0.47	0.34	1.07	1.06	1.59	1.72
Total Kjeldahl Nitrogen	4	4	9	9	1.43	1.07	0.64	0.25	3.00	3.92	1.30	0.92	2.64	2.96	3.52	5.21
Oil & Grease	4	N/A	9	N/A	9.3	N/A	0.0	N/A	74.0	N/A	0.0	N/A	56.3	N/A	251.8	N/A
pH	2	N/A	7	N/A	N/A	N/A	5.6	N/A	7.8	N/A	7.3	N/A	8.7	N/A	9.6	N/A
Total Phosphorus	4	4	9	9	0.24	0.11	0.00	0.00	1.60	0.32	0.07	0.09	0.67	0.28	1.51	0.43
Total Suspended Solids	5	4	8	9	330	82.7	4	5	1100	304	128	52	2463	397	8651	1083

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

3. Pollutant Control Measures Required Through Other EPA Programs

As part of the RCRA program, 40 CFR Part 264 sets standards for treatment, storage and disposal facilities. EPA realizes that some of the conditions of this section are already addressed by the requirements set forth in Part 264. Under the RCRA program, for example, secondary containment is required for tank systems in order to prevent the release of hazardous waste or hazardous constituents to the environment. Such secondary containment must either be capable of preventing storm water runon from entering the system, or have the capacity to contain the volume of the tank plus precipitation from a 25-year, 24-hour rainfall event (40 CFR 264.193).

Conditions such as those set forth for secondary containment at TSDFs are pertinent because they may overlap with aspects of the pollution prevention plan (PPP) required as part of this section. Therefore, in developing a storm water pollution prevention plan, a TSDF should include as Best Management Practices (BMPs) any controls relevant to storm water that have already been implemented under 40 CFR Part 264.

Other areas where RCRA requirements may overlap with the conditions set forth in this section include inspections and employee training. Daily and weekly inspections of tank systems and containers are required, respectively, under Part 264. Therefore, these inspections will be incorporated into the pollution prevention plan for this storm water permit. Similarly, employee training, required under 40 CFR 264.16, does not need to be repeated as part of implementation of the pollution prevention plan, but rather expanded as necessary to include issues concerning storm water management.

4. Options for Controlling Pollutants

In evaluating options for controlling pollutants in storm water discharges, EPA must achieve compliance with the

[16] Illicit connections are contributions of unpermitted non-storm water discharges to storm sewers from any of a number of sources including sanitary sewers, industrial facilities, commercial establishments, or residential dwellings. The probability of illicit connections at mineral mining and processing facilities is low yet it still may be applicable at some operations.

technology-based standards of the Clean Water Act [Best Available Technology (BAT) and Best Conventional Technology (BCT)]. The Agency does not believe that it is appropriate to establish specific numeric effluent limitations or a specific design or performance standard in this section for storm water discharges associated with industrial activity from hazardous waste treatment, storage, and disposal facilities to meet BAT/BCT standards of the Clean Water Act at this time. Instead, this section establishes requirements for the development and implementation of site-specific storm water pollution prevention plans consisting of a set of Best Management Practices (BMPs) that are sufficiently flexible to address different sources of pollutants at different sites.

Generally, BMPs are implemented to prevent and/or minimize exposure of pollutants from industrial activities to storm water discharges. EPA believes the most effective BMPs for reducing pollutants in storm water discharges are exposure minimization practices. Exposure minimization practices lessen the potential for storm water to come into contact with pollutants. Good housekeeping practices ensure that facilities are sensitive to routine and nonroutine activities which may increase pollutants in storm water discharges. The BMPs which address good housekeeping and exposure minimization are easily implemented, inexpensive, and require little, if any, maintenance. BMP expenses may include construction of roofs for storage areas or other forms of permanent cover and the installation of berms/dikes. Other BMPs such as detention/retention ponds and filtering devices may be needed at these facilities because of the contaminant level in the storm water discharges.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, hydrogeology and the environmental setting of each facility, and volume and type of discharge generated. Each facility will be unique in that the source, type, and volume of contaminated storm water discharges will differ. In addition, the fate and transport of pollutants in these discharges will vary. EPA believes that the management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with hazardous waste treatment, storage, or disposal facilities that are not already addressed by RCRA subtitle C.

Facilities covered under this section must already be in compliance with the standards for operating a hazardous waste treatment, storage, or disposal facility as established by 40 CFR Part 264. As discussed in greater detail in the previous section (Pollutant Control Measures Required Through Other EPA Programs), EPA believes that because of the requirements previously imposed on hazardous waste treatment, storage, or disposal facilities, storm water BMPs are already employed at most TSDFs. This belief is supported by part 1 group application data, which indicated that 97 percent of the representative sampling facilities already have SPCC plans in place at their sites.

Because of the potential for spills of hazardous materials during loading and unloading operations, and the absence of an individual discussion of these operations in 40 CFR Part 264, Table K–2 is provided to identify BMPs associated with these activities at hazardous waste treatment, storage, or disposal facilities.

TABLE K–2.—GENERAL LOADING AND UNLOADING STORM WATER BMPS FOR HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES

Activity	Best management practices (BMPs)
Outdoor Unloading and Loading	Confine loading/unloading activities to a designated area. Consider performing loading/unloading activities indoors or in a covered area. Consider covering loading/unloading area with permanent cover (e.g., roofs) or temporary cover (e.g., tarps). Close storm drains during loading/unloading activities in surrounding areas. Avoid loading/unloading materials in the rain. Inspect the unloading/loading areas to detect problems before they occur. Inspect all containers prior to loading/unloading of any raw or spent materials. Consider berming, curbing, or diking loading/unloading areas. Use dry clean-up methods instead of washing the areas down. Train employees on proper loading/unloading techniques.

Sources: NPDES Storm Water Group Applications—Part 1. Received by EPA, March 18, 1991 through December 31, 1992 EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.

5. Storm Water Pollution Prevention Plan Requirements.

EPA believes that pollution prevention is the most effective approach for controlling contaminated storm water discharges from hazardous waste treatment, storage, or disposal facilities. The requirements included in the pollution prevention plans provide a flexible framework for the development and implementation of site-specific controls to minimize the pollutants in storm water discharges. This flexibility is necessary because each facility is unique in that the source, type, and volume of contaminated storm water discharge will vary from site to site.

There are two major objectives to a pollution prevention plan: (1) to identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from a facility; and (2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity from a facility.

The pollution prevention plan requirement reflects EPA's decision to allow hazardous waste treatment, storage, or disposal facilities to utilize BMPs as the BAT/BCT level of control for the storm water discharges covered by this section.

As previously discussed, many of the storm water pollution prevention plan requirements discussed in this section of today's permit and fact sheet are already addressed by the RCRA program and employed at hazardous waste treatment, storage, or disposal facilities. Please note that if RCRA does not address a particular condition which is stipulated in the storm water pollution prevention plan, the facility still must

comply with that requirement of the plan.

6. Numeric Effluent Limitations.

There are no additional requirements under this section other than those stated in Part V.B of the permit.

7. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. EPA believes that treatment, storage, or disposal facilities (TSDFs) may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan and to characterize the discharge for potential environmental impacts, the permit requires TSDFs to collect and analyze samples of their storm water discharges for the pollutants listed in Table K–3. The pollutants listed in Table K–3 were not found to be above benchmark levels in the limited amount of data that was submitted in the group application process, but are believed to be present based upon the description of industrial activities and significant materials exposed. EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

At a minimum, storm water discharges from TSDFs must be monitored quarterly during the second year of permit coverage. Samples shall be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Table K–3. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE K–3.—Industry Monitoring Requirements

Pollutants of concern	Cut-off concentration (mg/L)
Ammonia	19
Total Recoverable Magnesium*	0.0636
Chemical Oxygen Demand (COD)	120
Total Recoverable Arsenic	16554
Total Recoverable Cadmium	0.0159
Total Cyanide**	0.0636
Total Recoverable Lead	0.0816
Total Recoverable Mercury	0.0024
Total Recoverable Selenium	0.2385
Total Recoverable Silver	0.0318

*The MDL for magnesium is 0.02 mg/L method 200.6.

**The MDL for cyanide is 0.02 mg/L method 335.1, .2, or .3.

If the average concentration for a parameter is less than or equal to the value listed in Table K–3, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Table K–3, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. The schedule for monitoring is presented in Table K–4.

TABLE K–4.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table K–3, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table K–3, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table K–3. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring described in Table K–3, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity,

that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in accordance with Part VI.B. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (C) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. For facilities conducting monitoring beyond the minimum quarterly requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or non-process water, then where practicable permittees must attempt to sample the storm water discharges before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

f. Quarterly Visual Examination of Storm Water Quality. Quarterly visual examinations of storm water discharges from each outfall are required at TSDFs. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each of the following designated periods: January through March; April through June; July through September; and October through December, during daylight unless there is insufficient rainfall or snow-melt to runoff. Whenever practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of storm water problems on that site and the effects of the management practices that are included in the plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not collecting samples. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

8. Region-specific Conditions

Region VI intends for this permit to cover all eligible hazardous waste treatment, storage, and disposal facilities, except those that treat and dispose exclusively commercial hazardous waste. Region VI believes that more careful compliance tracking is warranted for facilities that treat and dispose of commercially produced hazardous waste due to the wide range of chemicals and large quantities of hazardous waste materials that are generally disposed as a service to generators. Region VI has determined this to be a priority industry and

required individual permits in the past with limits. This affects permits issued by EPA Region VI for Louisiana (LAR05*###), New Mexico (NMR05*###), Oklahoma (OKR05*###), Texas (TXR05*###), and Federal Indian Reservations in these States (LAR05*##F, NMR05*##F, OKR05*##F, or TXR05*##F).

L. Storm Water Discharges Associated With Industrial Activity From Landfills and Land Application Sites

1. Industry Profile.

This section of today's permit addresses special requirements for storm water discharges associated with industrial activity from landfill and land application sites. Pursuant to 40 CFR 122.26, storm water discharges from landfills, land application sites, and open dumps that receive or have received industrial waste, including sites subject to regulation under Subtitle D of the Resource Conservation and Recovery Act (RCRA), are required to seek permit coverage. Under this section, industrial waste is defined as waste generated by any of the industrial activities described at 40 CFR 122.26(b)(14).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

Special conditions contained in this section apply to land disposal sites that meet the definition of a landfill under RCRA Subtitle D contained at 40 CFR Part 257, which establishes criteria for the classification of solid waste disposal facilities and practices. Part 257 defines landfills as areas of land or excavation in which wastes are placed for permanent disposal, and that are not land application units, surface impoundments, injection wells, or waste piles. Included in this definition are municipal solid waste landfills (MSWLFs) and industrial solid nonhazardous waste landfills. (Many of the 1,410 landfill facilities participating in the group application process are classified as MSWLFs). Therefore, the special conditions in this section apply to both MSWLFs and industrial landfills as defined under Part 257. This section also applies to industrial waste land application sites. Land application sites are defined as facilities at which wastes are applied onto or incorporated into the soil surface for the purpose of beneficial use or waste treatment and disposal. No open dumps were included in the facilities participating in the group application process (open dumps are defined as solid waste disposal units not in compliance with State/Federal criteria established under RCRA Subtitle D) and operation of an open dump is prohibited under RCRA Section 4004. Therefore, storm water discharges from open dumps are not addressed by this section. This section also does not apply to inactive landfills or inactive land application sites located on Federal lands, unless an operator can be identified. These discharges are more appropriately covered under a permit currently being developed by EPA.

The following sections describe industrial and municipal solid waste landfills and industrial waste land application sites.

a. Municipal Solid Waste Landfills. In 1988, EPA estimated that there were approximately 9,300 MSWLFs in the United States. The wastes which are disposed of in MSWLF landfills are highly variable. Examples include household waste (including household hazardous waste which is excluded from RCRA hazardous waste regulation), nonhazardous incinerator ashes, commercial wastes, yard wastes, tires, white goods, construction wastes, municipal and industrial sludges, asbestos, and other industrial wastes. Only a small percentage of all wastes disposed of in MSWLFs are industrial wastes. In 1988, EPA's Report to Congress on solid waste generation indicated that nearly 90 percent of wastes disposed of in all MSWLFs were household or commercial (office) wastes. Industrial process wastes represented only 2.73 percent of the total wastestream (although most MSWLFs currently or have previously accepted industrial wastes and are therefore subject to storm water permitting requirements). The Report also indicated that about half of the total number of MSWLFs received small quantity generator hazardous wastes. In addition, MSWLFs that operated prior to the implementation of RCRA hazardous waste management requirements in 1980 may have received wastes that after that date that would have been classified as hazardous wastes under current RCRA requirements.

A typical MSWLF is a constantly evolving facility which is constructed over its operating life as received wastes are spread, compacted, and covered. Most modern landfills contain one or more separate "units," planned final waste containment areas. Active units continue to receive wastes until they have reached disposal capacity. When capacity is reached, a unit is capped with a final cover, and additional wastes must be placed in other active units. As a result, a landfill may consist of multiple inactive and active units at various stages of completion.

Within each unit, wastes are added in layers referred to as lifts. Received wastes are spread across the working face of the landfill to a depth of six to twenty feet and then compacted. At the end of each working day a thin layer of soil (daily cover) is spread on top of the added wastes and compacted. A large unit may consist of multiple lifts, depending on the planned final depth.

Historically, landfills have been constructed according to one of two generic designs, the trench method and the area method, or a combination of these. The trench method requires the excavation of a trench into which wastes will be placed. Soil from the excavation provides the cover material as disposal continues. In the area method, wastes are placed directly on the ground surface and disposal follows the natural contours of the land. Some landfills use combinations of the two methods at different times depending on the location of the active unit.

MSWLF construction creates constant changes in the contours of the facility resulting in changing patterns of storm water runon and runoff. Controlling erosion of landfill slopes is among the primary concerns of the landfill operator. Current practices generally include a combination of temporary controls (straw bales, silt fences, etc.), in active disposal areas, and permanent controls (recontouring, revegetation, etc.), in areas where waste disposal has been completed.

Daily and intermediate covers serve primarily to protect against disease vectors and to prevent fires and the blowing of refuse. Typically, daily covers consist of the minimum amount of soil excavated from the site needed to cover exposed wastes in the active areas of the landfill. After spreading, the cover is usually compacted to reduce loss from erosion. Intermediate covers, which are also typically soil excavated from the site, are often applied to areas of a unit which will be inactive for

periods of 30 days or more. Deeper than daily covers, intermediate covers may be applied in conjunction with runoff control measures to minimize pooling and high-velocity flow patterns. Both daily and intermediate covers promote infiltration to some extent, depending on depth and soil material.

When a landfill (or landfill unit) has reached disposal capacity, a final cover is applied. Final covers generally provide a relatively impermeable cap over which topsoil is placed and vegetation is established. Permanent runoff controls (diversion channels, recontouring, terracing, etc.) may be constructed to minimize erosion and ponding. Final cover materials in older landfills, which are generally subject to limited regulatory requirements, often consist of a single layer of natural soils. However, at newer landfills subject to more stringent regulatory requirements, other cover materials (polymers, sand and gravel, sewage sludge, etc.) are frequently combined with soil in multiple layers.[84]

b. Industrial Landfills. Industrial landfills only receive wastes from industrial facilities such as factories, processing plants, and manufacturing sites. These facilities may also receive hazardous wastes from very small quantity hazardous waste generators (less than 100 kilograms per month), as defined in RCRA Subtitle C. Included in these waste streams are some PCB-contaminated wastes. The Toxic Substances Control Act PCB disposal regulations allow limited categories of PCB materials to be disposed of in RCRA Subtitle D landfills.[85] In 1988, EPA estimated that there were at least 3,511 industrial Subtitle D landfills (this would presumably be the maximum number of non-MSWLF facilities regulated by the storm water program). The specific number of these units that are onsite and offsite facilities (i.e., centralized waste management units) was not available. Because wastes generated by industrial facilities vary considerably, both between and within industries, the wastes disposed of at industrial landfills can be highly variable. For example, the industrial nonhazardous waste category includes wastes from the pulp and paper industry, the organic chemical industry, the textile manufacturing industry, and a variety of other industries. Consequently, these waste streams may vary in chemical composition and/or physical form. Most industrial landfills are privately owned.[86]

Currently, there are limited data available on industrial landfills. Specific industrial waste streams have not been well characterized and little is known about the hazards they may pose. Limited data are also available regarding the design, operation, and location of these facilities. It has been documented, however, that there has been only sporadic application of design and operating controls at industrial landfills. In 1988, only about 12 percent of industrial landfills (including both onsite and offsite facilities) had any type of liner, and fewer than 35 percent employed runon/runoff controls.[87] The use of these controls (including runon and runoff controls) at industrial waste landfills is likely to increase as State industrial waste programs continue to evolve.

c. Land Application Sites. In 1988, EPA estimated that there were approximately 5,605 land application sites in the United States. These sites receive wastes (primarily wastewaters and sludges) from facilities in virtually every major industrial category. More than half of all land application sites cover less than 50 acres and receive less than 50 tons of waste annually. The largest number of active land application sites in 1988 were observed in the food and kindred products industry, however the pulp and paper industry managed the largest gross quantity of waste using this practice. Similar to landfills, the variability in types of waste that are land applied precludes any general characterization of the materials that may be exposed to storm water. Typically, individual land applications will only dispose of wastes with specific characteristics. However, the criteria for selection are site-specific depending on type of process used and the soil characteristics. Waste application techniques are dependent on waste characteristics.

In 1988, EPA found that 68.5 percent of all industrial waste land application units had runon and runoff controls. No information was available on the extent of closure requirements applicable to land application units.

2. Potential Pollutant Sources and Options for Controlling Pollutants at Landfill and Land Application Sites

a. Landfills. At landfill sites, runoff carrying suspended sediments and commingling of runoff with uncontrolled leachate are the two primary sources of pollutants that this section is intended to address. Other potential sources of pollutants at landfills, those from ancillary areas of the landfill and which are not directly associated with landfill activities (i.e., vehicle maintenance, truck washing, etc.) may be subject to requirements in other sections of today's permit.

Total Suspended Solids. Storm water discharges from landfill sites often contain high TSS levels because of the extensive land disturbance activities associated with landfill operations. Suspended solids can adversely affect fisheries by covering the bottom of a stream or lake with a blanket of material that destroys the fish food bottom fauna or spawning grounds. In addition, while they remain in suspension, suspended solids can increase turbidity, reduce light penetration, and impair the photosynthetic activity of aquatic plants.[88] Specific sources of TSS loadings from landfill operations and typical Best Management Practices (BMPs) used to control TSS levels in storm water runoff are shown in Table L–1. The listed BMPs are consistent with the BMPs identified in part 1 of the permit applications submitted by landfill group applicants.

[84] "Report to Congress: Solid Waste Disposal in the United States," Vol. II, Office of Solid Waste and Emergency Response, Oct. 1988.

[85] Ibid.

[86] Ibid.

[87] Ibid.

[88] EPA. 1974 (October). "Development Document for the Effluent Limitations Guidelines and New Source Performance Standards for the Steam Electric Power Point Source Category."

TABLE L–1.—SOURCES OF TSS LOADINGS AND TYPICAL BMPS USED FOR EROSION CONTROL AT LANDFILLS

Potential pollutant sources	BMPs
Erosion from: Exposed soil from excavating cells/trenches. Exposed stockpiles of cover materials. Inactive cells with final cover but not yet finally stabilized. Daily or intermediate cover placed on cells or trenches. Erosion from haul roads (including vehicle tracking of sediments).	Stabilize soils with temporary seeding, mulching, and geotextiles; leave vegetative filter strips along streams. Implement structural controls such as dikes, swales, silt fences, filter berms, sediment traps and ponds, outlet protection, pipe slope drains, check dams, and terraces to convey runoff, to divert storm water flows away from areas susceptible to erosion, and to prevent sediments from entering water bodies. Frequently inspect all stabilization and structural erosion control measures and perform all necessary maintenance and repairs. Stabilize haul roads and entrances to landfill with gravel or stone. Construct vegetated swales along road. Clean wheels and body of trucks or other equipment as necessary to minimize sediment tracking (but contain any wash waters [process wastewaters]). Frequently inspect all stabilization and structural erosion control measures and perform all necessary maintenance and repairs.

(2) *Other Pollutants.* Table L–2 presents potential sources of other pollutants in storm water discharges from landfill operations. The specific pollutants associated with each of these sources are highly variable, depending upon individual site operations and waste types received. Table L–2 also lists BMPs that would be expected to be used in these areas to minimize potential pollutant loadings. Several of these BMPs were identified in the group permit applications submitted by landfill operators.

TABLE L–2.—SOURCES AND BMP CONTROLS OF POTENTIAL POLLUTANTS (OTHER THAN TSS)

Potential pollutant source	BMPs
Application of fertilizers, pesticides, and herbicides.	Observe all applicable Federal, State, and local regulations when using these products. Strictly follow recommended application rates and methods (i.e., do not apply in excess of vegetative requirements).
Exposure of chemical material storage areas to precipitation (including pesticides, fertilizers, and herbicides).	Have materials such as absorbent pads easily accessible to clean up spills. Provide barriers such as dikes to contain spills. Provide cover for outside storage areas. Have materials such as absorbent pads easily accessible to clean up spills.
Exposure of waste at open face	Minimize the area of exposed open face as much as is practicable. Divert flows around open face using structural measures such as dikes, berms, swales, and pipe slope drains. Frequently inspect erosion and sedimentation controls.
Waste tracking onsite and haul roads, solids transport on wheels and exterior of trucks or other equipment (common with incinerator ash).	Clean wheels and exterior of trucks or other equipment as necessary to minimize waste tracking (but contain any wash waters [process wastewaters]).
Uncontrolled leachate (commingling of leachate with runoff or runon).	Frequently inspect leachate collection system and landfill for leachate leaks. Maintain landfill cover and vegetation. Maintain leachate collection system.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at landfills and land applications sites as a whole and not subdivide this sector. Therefore, Table L–3 lists data for selected parameters from facilities in the landfill and land application sector. These data include the eight pollutants that all facilities were required to monitor for under Form 2F, as well as any pollutants that EPA has determined may merit further monitoring.

TABLE L–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY LANDFILLS AND LAND APPLICATION SITES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	30	28	52	50	13.6	6.86	0.0	0.0	140.0	78.0	7.0	4.40	39.8	29.6	76.3	54.5
COD	30	28	52	49	112.9	100.6	0.0	0.0	1220.0	1200.0	31.0	28.0	340.7	278.7	799.1	587.5
Nitrate + Nitrite Nitrogen	29	27	51	48	1.55	1.36	0.00	0.00	22.20	16.6	0.50	0.50	4.07	3.88	8.35	8.14
Total Kjeldahl Nitrogen	30	28	52	49	3.58	3.02	0.20	0.0	37.90	25.9	1.10	1.07	10.90	10.29	25.88	24.6
Oil & Grease	30	N/A	54	N/A	2.9	N/A	0.0	N/A	40.0	N/A	0.0	N/A	12.3	N/A	24.9	N/A
pH	32	N/A	59	N/A	N/A	N/A	3.0	N/A	8.9	N/A	7.3	N/A	9.3	N/A	10.2	N/A
Total Phosphorus	29	27	51	48	0.89	0.93	0.00	0.0	4.28	4.49	0.50	0.36	3.92	4.30	9.30	11.46
Total Suspended Solids	30	27	52	48	2922	1812	0	0	39900	18220	626	336	19476	10933	98449	49016

TABLE L–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY LANDFILLS AND LAND APPLICATION SITES SUBMITTING PART II SAMPLING DATA[i] (mg/L)—Continued

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
Iron, Total	6	6	8	8	55.7	30.2	0.0	0.2	210.0	150.0	17.0	9.4	1736.4	244.8	17684	1105.9

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

b. Land Application Sites. At land application sites, TSS may also be found at elevated levels in storm water discharges (because of the extensive soil disturbance). The occurrence and levels of other pollutants in storm water discharges are dependent on the types of wastes applied and facility design and operation (including use of storm water management/treatment practices. No part 2 data for TSS or any other pollutants were submitted for land application sites nor was such data available from other sources.

There are no Federal criteria for industrial landfill or land application unit design, operation, closure or post-closure care. State programs that address industrial landfills and land application sites vary considerably. As noted above, in 1988, only 35 percent of all industrial landfills had runon/runoff controls. However, many are subject to closure requirements.

3. Pollutant Control Measures Required by Other EPA Programs

EPA recognizes that requirements under other Federal and State programs currently address reclamation/closure of and storm water management at landfill and land application sites. In developing requirements under this section, the Agency has considered how these other program requirements affect the characteristics of storm water discharges (e.g., by limiting contact with potential pollutant sources). Of specific note are recently imposed RCRA criteria at 40 CFR Parts 257 and 258 that address the design, operation, and closure of MSWLFs. These regulations are summarized below.

Regulations at 40 CFR Part 257 classify solid waste disposal facilities and practices. Regulations at 40 CFR Part 258 establish criteria for municipal solid waste landfills. The types of criteria required include: location restrictions, operating criteria, design criteria, ground water monitoring and corrective action, closure and postclosure care, and financial assurance criteria. All States must implement the Federal MSWLF criteria primarily through State solid waste management plans.

As part of the operating criteria, Part 258 requires that all discrete units within MSWLFs receiving waste provide for the following by October 1993 (it should be noted that EPA has proposed an extension of this deadline to April 1994):

(a) Owners or operators of all MSWLF units must design, construct, and maintain:

(1) A runon control system to prevent flow onto the active portion of the landfill during the peak discharge from a 25-year storm:

(2) A runoff control system from the active portion of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm event.

In addition, all MSWLF units that received wastes after October 1991 are required to meet specific closure standards (see 40 CFR 258.60). These standards include installation of a final cover consisting of a minimum of 6 inches of topsoil over a minimum of 18 inches of clay. The cover must be no more permeable than the unit's liner. The criteria also imply, but do not explicitly require, that revegetation should be performed.

These criteria indicate that for all but the most severe storm events (i.e., greater than the 24-hour, 25-year storm event), new units within MSWLFs will be required to separate storm water discharges from active and inactive areas. (Active areas are defined as those that have not yet received a final cover [as required under 258.60].) Further, the closure/final cover criteria described above are intended to prevent contact with waste materials and minimize erosion.

4. Storm Water Pollution Prevention Plans Requirements

The requirements for storm water pollution prevention plans under this section build upon the requirements included in the common pollution prevention requirements discussed in the front of this fact sheet. As such, the following discussion focuses on the plan requirements that are specific to landfills and land application sites. The rationale for the common requirements applicable to all types of facilities covered under today's permit (including landfills) is provided in Part VI of this fact sheet.

a. Description of Potential Pollutant Sources. The first step in preventing pollution of storm water from landfills is to identify potential sources of storm water contamination. Consequently, EPA is requiring that landfill and land application site operators include, in their pollution prevention plan, a narrative description of activities at their facilities. The Agency is also requiring landfill permittees to identify on a site map the locations of active and closed cells or trenches, any known leachate springs or other areas where leachate may commingle with runoff, the locations of any leachate collection and handling systems, and the locations of stockpiles of landfill cover material. The Agency is requiring land application site permittees to identify on their site maps the locations of active and inactive land application areas and the types of wastes applied in those areas, any known leachate springs or other areas where leachate may commingle with runoff, the locations of any leachate collection and handling systems, and the locations of temporary waste storage areas. EPA believes these requirements will, in the event contamination is detected in storm water, facilitate the identification of any source of contamination.

EPA is also requiring owners or operators to summarize all available sampling data for storm water and leachate generated at the site because the Agency believes these data will help to determine whether storm water is commingling with any leachate produced at the site. Finally, operators must identify any current NPDES-permitted discharges at their sites.

b. Measures and Controls. EPA is requiring good housekeeping practices for materials storage areas exposed to precipitation and for vehicle tracking of sediment and waste. EPA believes good

housekeeping practices provide a simple and inexpensive means of controlling pollutants from entering storm water and therefore will not be overly burdensome to regulated facilities.

EPA believes that frequent and thorough inspections are necessary to ensure adequate functioning of: sediment and erosion controls, leachate collection systems, intermediate and final covers, and significant materials storage containers. Failure of any of the aforementioned items could cause contamination of storm water with sediment, leachate, or significant materials stored onsite. EPA believes it is necessary to conduct inspections both during storm events and during dry weather. Inspections during dry periods allow facilities to identify and address any problems prior to a storm event, thereby minimizing the chance for storm water contamination. Inspections during significant storm events ensure that measures are functioning as originally intended and provide an opportunity for facilities to observe what materials and/or activities are exposed to storm water. Pollution prevention plans must address the specific inspection requirements for active and inactive landfills and land application sites described in Part XI.L.3.a.(3).(d) of today's permit.

Failures of significant materials storage containers, leachate collection and treatment systems, cover materials, and sedimentation and erosion controls can result in storm water contamination. EPA believes it is necessary to maintain these items in good working order to prevent storm water contamination. Consequently, EPA is requiring (in pollution prevention plans) that owners or operators ensure the maintenance of material storage areas to prevent leaking or rupture and all elements of leachate collection and treatment systems to prevent commingling of leachate with storm water. Pollution prevention plans must also describe measures to be taken to protect the integrity and effectiveness of any intermediate and final covers.

EPA believes controls are needed to reduce potential TSS contamination of storm water and to reduce suspended solids which have been carried by storm water before the discharge leaves the site. Therefore, EPA has chosen to require that pollution prevention plans address both stabilization and structural controls to reduce potential TSS loadings to surface waters.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. This section establishes separate requirements for municipal solid waste landfills (MSWLFs) and industrial landfills. These requirements are discussed below.

(1) MSWLFs. The Agency believes that the MSWLF criteria in 40 CFR 258.60 will effectively separate runoff from active and inactive areas at newer landfills. As a result, separate requirements have been established for active and inactive areas at MSWLF sites.

For discharges from active landfill areas, the Agency believes that there is reasonable potential for runoff to contact waste materials. In these areas, runoff may also become commingled with leachate. In fact, a significant percentage of landfill facilities that submitted group applications, identified leachate and wastes as "exposed materials." In addition, total suspended solids (TSS) levels are also likely to be elevated where contact occurs with wastes, disturbed areas, and daily/intermediate cover materials.

At this time, the Agency does not believe that there are sufficient data available to establish numeric limits based on best available technology for storm water discharges from active MSWLF areas. The data submitted in the part 2 applications, as well as leachate data from available literature, suggest that a variety of constituents may be present at levels that are highly site-specific depending on the types and extent of contact with exposed wastes and extent of commingling with leachate. Furthermore, the volumes of runoff generated will be dependent on the frequency and intensity of precipitation events. For TSS, little or no data are available to characterize the TSS levels in active landfill area runoff and to assess the performance of treatment technologies/best management practices currently in use.

Therefore, in this section, EPA is requiring that landfill operators develop storm water pollution prevention plans. For active landfill areas, these plans should be tailored toward minimizing contact of storm water with waste materials. The plans should also include design and implementation of best management practices and/or treatment methods to control the pollutants likely to be found in runoff at the site. For the active portion of the landfill, this section also requires quarterly monitoring for TSS and total recoverable iron (see below) to quantify the performance of BMPs/treatment measures. These data may be used in the future in the development of individual and/or general permits to establish numeric limitations based on best available technology. It should also be noted that EPA is currently in the process of developing effluent limitation guidelines for discharges of leachate from waste management facilities (including MSWLFs). Where these effluent guidelines apply to discharges from active areas, facilities will be required to comply with these requirements on the effective date.

For units/areas that ceased receiving wastes after October 1991, EPA believes that closure criteria under 40 CFR 258.60 will minimize or eliminate pollutant loadings from waste materials to storm water. For MSWLF units closed in accordance with these criteria, TSS should be the only pollutant of concern. Again, EPA does not believe that adequate data are currently available to establish a numeric limitation based on best available technology (BAT) for TSS in storm water discharges from inactive areas. TSS concentrations in untreated storm water discharges have not been sufficiently well characterized to address the site-specific variability arising from local geology and topography along with individual cover materials and reclamation practices. Furthermore, the available data do not support an assessment of the relative performance of specific BMPs/treatment measures. Quarterly TSS monitoring is required to provide additional data to evaluate the effectiveness of specific control measures.

The Agency is uncertain whether all MSWLF units which ceased receiving wastes prior to October 1991 will have been closed in such a manner to ensure long term stability and minimize the potential for runoff to contact wastes and leachate. Therefore, operators of units that were closed prior to October 1991 are required to conduct the same monitoring as required for active areas. This monitoring is intended to evaluate the integrity and performance of final cover materials in minimizing pollutant loadings to storm water discharges. Based on the results of this monitoring, the permitting authority may elect to continue/modify or terminate the required monitoring, provide for additional permit conditions (including specific BMPs and/or numeric limitations), or terminate coverage under the permit, as appropriate.

An exception from most monitoring requirements is provided for older landfill areas closed prior to October 1991 in accordance with State requirements that meet or exceed the final cover criteria in 40 CFR 258.60. Similar to newer units, TSS should be the only pollutant of concern at these sites and only quarterly TSS monitoring is required.

(2) Industrial Landfills. As discussed above, minimal data are available to characterize storm water discharges or management practices for industrial solid waste landfills. EPA recognizes that onsite landfills are likely to be dedicated waste management units. However, the 1988 Report to Congress indicates that these onsite units can be found at sites in virtually every major industrial category. Offsite landfills can receive industrial wastes from almost any sources. Further, there are no current or planned Federal minimum requirements for runon/runoff control and closure of these onsite and offsite facilities. As a result, existing State programs vary. Some States have extensive permitting and design standard requirements for industrial landfills, often for specific waste types. In contrast, other States have much more limited industrial solid waste programs.

Because of the variability between sites, the need for representative runoff characterization data, and the lack of information on BMP/treatment method performance, this section does not establish effluent limitations for storm water discharges from industrial landfills. At this time, best available technology shall consist of development and implementation of pollution prevention plans. In addition, to ensure protection of water quality, the Agency has established monitoring requirements based on the potential for elevated TSS levels (due to erosion) and the concern that runoff from industrial landfills may contact waste materials and/or leachate.

(3) Land Application Sites. This section includes the same requirements for land application sites as for industrial landfills (as described above). The Agency does not currently have sufficient data to identify specific pollutants common to land application sites and develop numeric limitations. Therefore, the Agency believes that requiring implementation of pollution prevention plans along with TSS and Total Recoverable iron monitoring requirements is appropriate.

In summary, EPA believes that landfill/land application sites may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan and to characterize the discharge for potential environmental impacts, the permit requires landfill/land application sites to collect and analyze samples of their storm water discharges for the pollutants listed in Table L–5.

At a minimum, storm water discharges from landfill/land application sites must be monitored quarterly during the second year of permit coverage. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Table L–5. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE L–5.—INDUSTRY MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Suspended Solids (TSS)[i]	100 mg/L.
Total Recoverable Iron[ii]	1.0 mg/L.

[i] Applicable to all landfill and land application sites.
[ii] Applicable to all facilities except MSWLF areas closed in accordance with 40 CFR 258.60 requirements.

If the average concentration for a parameter is less than or equal to the value listed in Table L–5, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Table L–5, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. The schedule of monitoring is presented in Table L–6.

TABLE L–6.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table L–5, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table L–5, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table L–5. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

The monitoring cut off concentrations listed in Table L–5 are not numerical effluent limitations. These values represent a level of pollutant discharge which facilities may achieve through the implementation of pollution prevention plans. At least half of the facilities which submitted Part 2 data,

reported concentrations greater than or equal to the values listed in Table L–5. Facilities that achieve average discharge concentrations which are less than or equal to the values in Table L–5 are not relieved from the pollution prevention plan requirements or any other requirements of the permit.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of monitoring reports described in (*c*) below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity, that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*c*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. Such permittees must submit monitoring results on signed Discharge Monitoring Report Forms to the Director. For each outfall, one Discharge Monitoring Reporting Form must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum quarterly requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

f. Quarterly Visual Examination of Storm Water Quality. Landfills and land application sites shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted under paragraph (3) below. The examination(s) must be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials,

and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the observation data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage are (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and effects on the management practices that are included in the plan.

M. Storm Water Discharges Associated With Industrial Activity From Automobile Salvage Yards

1. Industry Profile

On November 16, 1990 (55 FR 47990), EPA promulgated the regulatory definition of "storm water discharges associated with industrial activity." This definition included point source discharges of storm water from eleven categories of facilities, including "* * * battery reclaimers, salvage yards, and automobile recyclers, including but limited to those classified as Standard Industrial Classification 5015.* * *"

This section establishes special conditions for the storm water discharges associated with industrial activities at automobile salvage yards. Washwaters from vehicle, equipment, and parts cleaning areas are process wastewaters. Discharges of process wastewater and discharges subject to process wastewater effluent limitation guidelines are not eligible for coverage under this section.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

This section has been developed for storm water discharges associated with activities related to dismantling of used motor vehicles for the purpose of selling parts. As stated above, category (vi) of the definition of storm water discharges associated with industrial activity includes facilities primarily engaged in the wholesale or retail distribution of used motor vehicle parts and classified as SIC code 5015. Dismantlers are a major source for replacement parts for motor vehicles in service.

The following description summarizes operations that might occur at a typical automobile dismantling facility. The primary activity involves the dismantling or wrecking of used motor vehicles. Some facilities, however, perform vehicle maintenance and may rebuild vehicles for resale.

Typically, automobile dismantling facilities receive vehicles that are either uneconomical to run or wrecks that are uneconomical to repair. The nature of operations generally depends on the size and location of the facility. In urban areas where land is more valuable, vehicles are typically dismantled upon arrival, parts are segregated, cleaned, and stored. Remaining hulks are generally sold to scrap dealers rather than stored onsite due to limited space. In more rural areas, discarded vehicles are typically stored on the lot and parts removed as necessary. Remaining hulks are sold to scrap dealers less frequently.

Once a used vehicle is brought to the site, fluids may be drained and the tires, gas tank, radiator, engine and seats may be removed. The dismantler may separate and clean parts. Such cleaning may include steam cleaning of the engine and transmission as well as the use of solvents to remove oil and grease and other residues. Usable parts are then inventoried and stored for resale. The remaining car and/or truck bodies are stored onsite for future sale of the sheet metal and glass. Stripped vehicles and parts that have no resale value are typically crushed and sold to a steel scrapper. Some operations may, however, convert used vehicles and parts into steel scrap as a secondary operation. This is accomplished by incineration, shearing (bale shearer), shredding, or baling.

According to the 1987 census, 6,075 establishments reported SIC code 5015 as their primary SIC code, although some estimates indicate that there may be as many as 11,000 to 12,000 of these facilities.[89] Vehicle wreckers and dismantlers are generally small, privately owned businesses. Most facilities employ 10 or fewer employees and derive the majority of their profits from the sale of usable parts. Only a small percentage of this universe consists of large establishments with fleets of trucks, cranes, mobile balers and computers to maintain inventories of parts.[90]

Table M–1 below lists potential pollutant sources from activities that commonly take place at automobile salvage yards.

[89] "The Automobile Scrap Processing Industry," Howard Ness, P.E., 1984.

[90] Ibid.

TABLE M–1.—COMMON POLLUTANT SOURCES

Activity	Pollutant source	Pollutants
Vehicle Dismantling	Oil, anti-freeze, batteries, gasoline, diesel fuel, hydraulic fluids.	Oil and grease, ethylene glycol, heavy metals.
Used Parts Storage	Batteries, chrome bumpers, wheel balance weights, tires, rims, filters, radiators, catalytic converters, engine blocks, hub caps, doors, drivelines, galvanized metals, mufflers.	Sulfuric acid, galvanized metals, heavy metals, petroleum hydrocarbons, suspended solids.
Outdoor Vehicle and Equipment Storage	Leaking engines, chipping/corroding bumpers, chipping paint, galvanized metal.	Oil and grease, arsenic, organics, heavy metals, TSS.
Vehicle and Equipment Maintenance	Parts cleaning	Chlorinated solvents, oil and grease, heavy metals, acid/alkaline wastes.
	Waste disposal of greasy rags, oil filters, air filters, batteries, hydraulic fluids, transmission fluids, radiator fluids, degreasers.	Oil, heavy metals, chlorinated solvents, acid/alkaline wastes oil, heavy metals, chlorinated solvents, acid/alkaline wastes, ethylene glycol.
	Spills of oil, degreasers, hydraulic fluids, transmission fluid, and radiator fluids.	Oil, arsenic, heavy metals, organics, chlorinated solvents, ethylene glycol
	Fluids replacement, including oil, hydraulic fluids, transmission fluid, and radiator fluids.	Oil, arsenic, heavy metals, organics, chlorinated solvents, ethylene glycol.
Vehicle, Equipment, and Parts Washing Areas	Washing and steam cleaning waters	Oil and grease, detergents, heavy metals, chlorinated solvents, phosphorus, salts, suspended solids.
Liquid Storage in Above Ground Storage Tanks	External corrosion and structural failure	Fuel, oil and grease, heavy metals, materials being stored.
	Installation problems	Fuel, oil and grease, heavy metals, materials being stored.
	Spills and overfills due to operator error	Fuel, oil and grease, heavy metals, materials being stored.
Illicit Connection to Storm Sewer	Process wastewater	Dependent on operations.
	Sanitary water	Bacteria, biochemical oxygen demand (BOD), suspended solids.
	Floor drain	Oil and grease, heavy metals, chlorinated solvents, fuel, ethylene glycol.
	Vehicle washwaters	Oil and grease, detergents, metals, chlorinated solvents, phosphorus, suspended solids.
	Radiator flushing wastewater	Ethylene glycol.
	Leaking underground storage tanks	Materials stored or previously stored.

Sources:
NPDES Storm Water Group Applications—Part 1. Received by EPA March 18, 1991 through December 31, 1992.
Alabama Department of Environmental Management. September 30, 1992. "Best Management Plan for Automobile Salvage Yards—Final Report."
EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention—The Automotive Refinishing Industry." EPA/625/7–91/016.
EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention—The Automotive Repair Industry." EPA/625/7–91/013.
EPA, Office of Research and Development. May 1992. "Facilities Pollution Prevention Guide." EPA/600/R–92/088.
EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities—Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.

2. Pollutants in Storm Water Discharges Associated With Automobile Salvage Yards.

Impacts caused by storm water discharges from automobile salvage yards will vary. Several factors influence to what extent operations at the site can affect water quality. Such factors include: geographic location; hydrogeology; the types of industrial activity occurring outside (e.g., dismantling, vehicle and parts storage, or steam cleaning); the size of the operation; and the type, duration, and intensity of precipitation events. Each of these, and other factors, will interact to influence the quantity and quality of storm water runoff. For example, outdoor storage of leaking engine blocks may be a significant source of pollutants at some facilities, while dismantling operations is the primary source at others. In addition, sources of pollutants other than storm water, such as illicit connections,[91] spills, and other improperly dumped materials, may increase the pollutant loading discharged into waters of the United States.

[91] Illicit connections are contributions of unpermitted non-storm water discharges to storm sewers from any number of sources including improper connections, dumping or spills from industrial facilities, commercial establishments, or residential dwellings. The probability of illicit connections at used motor vehicle parts facilities is low yet it may be applicable at some operations.

EPA has identified the storm water pollutants and sources resulting from various automobile salvage yard activities in Table M–1. Table M–1 identifies oil, heavy metals, acids, and ethylene glycol as some of the parameters of concern at automobile salvage yards.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at automobile salvage yards as a whole and not subdivide this sector. Therefore, Table M–2 lists data for selected parameters from facilities in the automobile salvage yards sector. These data include the eight pollutants that all

facilities were required to monitor under Form 2F, as well as the pollutants that EPA determined merit further monitoring.

TABLE M–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY AUTOMOBILE SALVAGE YARDS SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	45	59	58	74	15.9	12.37	2.0	0.0	216.0	84.0	7.0	6.0	42.3	38.62	82.5	77.33
COD	65	43	83	54	123.8	73.52	0.0	11.0	1660.0	215.0	62.0	54.5	365.2	177.2	722.3	279.3
Nitrate+Nitrite Nitrogen	45	58	58	73	1.02	2.38	0.00	0.0	6.50	69.3	0.60	0.67	3.23	6.96	6.52	17.0
Total Kjeldahl Nitrogen	37	51	50	68	3.19	2.20	0.04	0.04	18.0	011.0	2.00	1.68	10.22	6.01	19.48	10.2
Oil & Grease	41	N/A	58	N/A	7.0	N/A	0.0	N/A	84.0	N/A	3.0	N/A	26.8	N/A	60.5	N/A
pH	67	N/A	87	N/A	N/A	N/A	3.1	N/A	9.1	N/A	7.3	N/A	9.0	N/A	9.9	N/A
Total Phosphorus	39	54	52	66	0.76	1.22	0.00	0.00	11.20	45.0	0.15	0.11	2.61	2.49	7.70	7.79
Total Suspended Solids	47	60	60	76	552	524.9	0	1.0	4200	8565	196	166.00	2473	2462.6	6951	7999.9
Aluminum, Total	37	34	37	34	13.38	9.14	0.30	0.40	88.00	45.20	8.50	5.95	61.05	36.47	158.90	81.08
Iron, Total	37	34	37	34	19.1	11.2	0.9	0.7	95.0	54.0	10.7	7.5	82.3	43.9	212.2	98.6
Lead, Total	22	22	24	22	0.340	0.200	0.100	0.100	1.400	0.600	0.21	0.10	0.884	0.467	1.512	0.731

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

3. Options for Controlling Pollutants

In evaluating options for controlling pollutants in storm water discharges, EPA must achieve compliance with the technology-based standards of the Clean Water Act [Best Available Technology (BAT) and Best Conventional Technology (BCT)]. The Agency does not believe that it is appropriate to establish specific numeric effluent limitations or a specific design or performance standard in this section for storm water discharges associated with industrial activity from automobile salvage yard operations to meet the BAT/BCT standards of the Clean Water Act. Because of the diversity of operations at automobile salvage yards and the lack of sufficient storm water water quality data currently available to EPA, establishing numeric effluent limitations is not feasible at this time. Rather, this section establishes requirements for the development and implementation of a site-specific storm water pollution prevention plan consisting of a set of Best Management Practices that are sufficiently flexible to address different sources of pollutants at different sites.

Best Management Practices (BMPs) are implemented to prevent and/or eliminate pollutants in storm water discharges. EPA believes the most effective BMPs for reducing pollutants in storm water discharges from automobile salvage yards is through exposure minimization practices. Exposure minimization practices minimize the potential for storm water to come in contact with pollutants. These BMP methods are generally uncomplicated and inexpensive practices. They are easy to implement, and require little or no maintenance. In some instances, more resources-intensive BMPs, including detention ponds or filtering devices, may be necessary depending on the type of discharge, types and concentrations of contaminants, and volume of flow.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, hydrogeology and the environmental setting of each facility, and volume and type of discharge generated. Each facility will be unique in that the source, type, and volume of contaminated storm water discharges will differ. In addition, the fate and transport of pollutants in these discharges will vary. EPA believes that the management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with automobile salvage yards.

Part 1 group application data indicate that BMPs have not been widely implemented at the representative sampling facilities. Less than 5 percent of the sampling subgroup list indoor storage as a material management practice. Less than 8 percent of the representative sampling facilities use covering at their storage areas. Less than 3 percent of the representative facilities utilize waste minimization practices. The most commonly listed (approximately 20 percent) material management practice is draining fluids from vehicles prior to storage. Because BMPs described in part 1 data are limited, Table M–3 is provided to identify BMPs associated with activities that may be employed at automobile salvage yards.

TABLE M–3.—STORM WATER BMPS FOR AUTOMOBILE SALVAGE YARDS

Activity	BMPs
Dismantling and vehicle maintenance	Drain all fluids from vehicles upon arrival at the site. Segregate the fluids and properly store or dispose of them. Maintain an organized inventory of materials used in the maintenance shop. Keep waste streams separate (e.g., waste oil and mineral spirits). Nonhazardous substances that are contaminated with a hazardous substance is considered a hazardous substance. Recycle anti-freeze, gasoline, used-oil, mineral spirits, and solvents. Dispose of greasy rags, oil filters, air filters, batteries, spent coolant, and degreasers properly. Label and track the recycling of waste material (e.g., used oil, spent solvents, batteries). Drain oil filters before disposal or recycling.

TABLE M–3.—STORM WATER BMPS FOR AUTOMOBILE SALVAGE YARDS—Continued

Activity	BMPs
	Store cracked batteries in a nonleaking secondary container.
	Promptly transfer used fluids to the proper container. Do not leave full drip pans or other open containers around the shop. Empty and clean drip pans and containers.
	Do not pour liquid waste down floor drains, sinks, or outdoor storm drain inlets.
	Plug floor drains that are connected to the storm or sanitary sewer. If necessary, install a sump that is pumped regularly.
	Inspect the maintenance area regularly for proper implementation of control measures.
	Filtering storm water discharges with devices such as oil-water separators.
	Train employees on proper waste control and disposal procedures.
Outdoor vehicle, equipment, and parts storage .	Use drip pans under all vehicles and equipment waiting for maintenance and during maintenance.
	Store batteries on impervious surfaces. Curb, dike or berm this area.
	Confine storage of parts, equipment and vehicles to designated areas.
	Cover all storage areas with a permanent cover (e.g., roofs) or temporary cover (e.g., canvas tarps).
	Install curbing, berms or dikes around storage areas.
	Inspect the storage yard for filling drip pans and other problems regularly.
	Train employees on procedures for storage and inspection items.
Vehicle, equipment and parts washing areas	Avoid washing parts or equipment outside.
	Use phosphate-free biodegradable detergents.
	Consider using detergent-based or water-based cleaning systems in place of organic solvent degreasers.
	Designate an area for cleaning activities.
	Contain steam cleaning washwaters or discharge under an applicable NPDES permit.
	Ensure that washwaters drain well.
	Inspect cleaning area regularly.
	Install curbing, berms or dikes around cleaning areas.
	Train employees on proper washing procedures.
Liquid storage in above ground containers	Maintain good integrity of all storage containers.
	Install safeguards (such as diking or berming) against accidental releases at the storage area.
	Inspect storage tanks to detect potential leaks and perform preventive maintenance.
	Inspect piping systems (pipes, pumps, flanges, couplings, hoses, and valves) for failures or leaks.
	Train employees on proper filling and transfer procedures.
Improper connection with storm sewers	Plug all floor drains if it is unknown whether the connection is to storm sewer or sanitary sewer systems. Alternatively, install a sump that is pumped regularly.
	Perform dye testing to determine if interconnections exist between sanitary water system and storm sewer system.
	Update facility schematics to accurately reflect all plumbing connections.
	Install a safeguard against vehicle washwaters and parts cleaning waters entering the storm sewer unless permitted.
	Maintain and inspect the integrity of all underground storage tanks; replace when necessary.
	Train employees on proper disposal practices for all materials.

Sources: NPDES Storm Water Group Applications—Part 1. Received by EPA March 18, 1991 through December 31, 1992.
EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention—The Automotive Refinishing Industry." EPA/625/7–91/0.
EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention—The Automotive Repair Industry." EPA/625/7–91/013.
EPA, Office of Research and Development. May 1992. "Facility Pollution Prevention Guide." EPA/600/R–92/088.
EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities—Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.
Minnesota Technical Assistance Program. September 1988. "Waste minimization—Auto Salvage Yards."

4. Pollutant Control Measures Required Through Other EPA Programs

Because hazardous substance including oil, gasoline, and lead are commonly found at automobile salvage yards, such facilities may be subject to other State or Federal environmental protection programs. In particular, as described below, the Resource Conservation and Recovery Act (RCRA) and the Underground Storage Tank (UST) programs require careful management of materials used onsite which decreases the probability that storm water from such areas will be contaminated by these materials.

Under the RCRA program, on September 10, 1992, EPA promulgated standards in 40 CFR Part 279 for the management of used oils that are recycled (57 FR 41566). These standards include requirements for used oil generators, transporters, processors/re-refiners, and burners. The standards for used oil generators apply to all generators, regardless of the amount of used oil they generate. Do-it-yourself (DIY) generators which generate used oil from the maintenance of their personal vehicles, however, are not subject to the management standards in 40 CFR 279.20(a)(1)).

The requirements for used oil generators were designed to impose a minimal burden on generators while protecting human health and the environment from the risks associated with managing used oil. Under Subpart C of 40 CFR Part 279, used oil generators must not store used oil in units other than tanks, containers, or units subject to regulation under 40 CFR Parts 264/265 (Section 279.22(a)). In other words, generators may store used oil in tanks or containers that are not subject to Subpart J (hazardous waste

tanks) or Subpart I (containers) of 40 CFR Parts 264/265, as long as such tanks or containers are maintained in compliance with the used oil management standards. This does not preclude generators from storing used oil in Subpart J tanks or Subpart I containers or other units, such as surface impoundments (Subpart K), that are subject to regulation under 40 CFR Part 264 or 265.

Storage units at generator facilities must be maintained in good condition and labeled with the words "used oil." Upon detection of a release of used oil to the environment, a generator must take steps to stop the release, contain the released used oil, and properly manage the released used oil and other materials [40 CFR 279.22 (b) to (d)]. Generators storing used oil in underground storage tanks are subject to the UST regulations in 40 CFR Part 280.

If used oil generators ship used oil offsite for recycling, they must use a transporter who has notified EPA and obtained an EPA identification number [40 CFR 279.24].

The technical standards for USTs at 40 CFR Part 280 require that new UST systems (defined as systems for which installation commenced after December 12, 1988) use overfill prevention equipment that will: 1) automatically shut off flow into the tank when the tank is no more than 95 percent full; or 2) alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high level alarm. The preceding requirements do not apply to systems that are filled by transfers of no more than 25 gallons at one time. Existing UST systems (defined as systems for which installation has commenced on or before December 12, 1988) are required to have installed the described overfill prevention equipment by December 12, 1998.

5. Storm Water Pollution Prevention Plan Requirements

EPA believes that pollution prevention is the most effective approach for controlling contaminated storm water discharges from automobile salvage yards. Pollution prevention plans allow the operator of a facility to select BMPs based on site-specific considerations such as: facility size; climate; geographic location; geology/hydrology; the environmental setting of each facility; and volume and type of discharge generated. This flexibility is necessary because each facility will be unique in that the source, type, and volume of contaminated surface water discharges will differ from site to site.

Under today's general permit, all facilities must prepare and implement a storm water pollution prevention plan. The establishment of a pollution prevention plan requirement reflects EPA's decision to allow operators of automobile salvage yards to utilize BMPs as the BAT/BCT level of control for the storm water discharges covered by this section. The requirements included in pollution prevention plans provide a flexible framework for the development and implementation of site specific controls to minimize pollutants in storm water discharges. This approach and associated deadlines are consistent with EPA's storm water general permits finalized on September 9, 1992 and September 25, 1992 for discharges in nonauthorized NPDES States (57 FR 41236).

There are two major objectives to a pollution prevention plan: 1) to identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from a facility; and 2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity from a facility.

Specific requirements for a pollution prevention plan for automobile salvage yards are described below. These requirements must be implemented in addition to the baseline pollution prevention plan provisions discussed previously.

a. Contents of the Plan. Storm water pollution prevention plans are intended to aid operators of automobile salvage yards to evaluate all potential pollution sources at a site, and assist in the selection and implementation of appropriate measures designed to prevent, or control, the discharge of pollutants in storm water runoff. EPA has developed guidance entitled "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices," EPA, 1992, (EPA 832–R–92–006) to assist permittees in developing and implementing pollution prevention measures.

(1) Description of Potential Pollution Sources. There are no requirements beyond those described in Part VI.C.2 of this fact sheet.

(2) Measures and Controls. Following completion of the source identification and assessment phase, the permittee must evaluate, select, and describe the pollution prevention measures, best management practices (BMPs), and other controls that will be implemented at the facility. For the following areas at the site, the permittee must assess the applicability of the corresponding BMPs:

Vehicle Dismantling and Maintenance Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for vehicle dismantling and maintenance. The facility must consider draining and segregating all fluids from vehicles upon arrival at the site, or as soon as feasible thereafter. The facility must consider performing all maintenance activities indoors, maintaining an organized inventory of materials used in the shop, draining all parts fluids prior to disposal, prohibiting the practice of hosing down the shop floor, using dry cleanup methods, and/or collecting the storm water runoff from the maintenance area and providing treatment. Where dismantling and maintenance activities can not take place indoors, facilities may consider methods for containing oil or other fluid spillage during parts removal. Drip pans, large plastic sheets, or canvas may be considered for placement under vehicles or equipment during maintenance and dismantling activities. Where drip pans are used, they should not be left unattended to prevent accidental spills.

Vehicle, Parts, and Equipment Storage Areas—The storage of vehicles, parts, and equipment must be confined to designated areas (delineated on the site map). The plan must describe measures that prevent or minimize contamination of the storm water runoff from these areas. The facility must consider the use of drip pans, large sheets of plastic, canvas (or equivalent measures) under vehicles, parts, and equipment. Canvas or sheets of plastic may be used as temporary coverage of storage areas. Indoor storage of vehicles, parts and equipment, as well as the installation of roofs, curbing, berming and diking of these areas must be considered. Large plastic or metal bins with secure lids should be used to store oily parts (e.g., small engine parts). Used batteries should be stored within nonleaking secondary containment or by other equivalent means to prevent leaks of acid into storm water discharges.

Material Storage Areas—As part of a good housekeeping program, consider labeling storage units of all materials (e.g., used oil, used oil filters, spent solvents, paint wastes, radiator fluids, transmission fluids, hydraulic fluids). Maintain such containers and units in good condition, so as to prevent contamination of storm water. The plan must describe measures that prevent or minimize contamination of the storm

water runoff from such storage areas. The facility may consider indoor storage of the materials and/or installation of berming and diking of the area.

Vehicle, Equipment, and Parts Cleaning Areas—The plan must describe measures that prevent or minimize contamination of storm water from all areas used for vehicle, equipment, and parts cleaning. The facility must consider performing all cleaning operations indoors. In addition, the facility must consider covering or berming the cleaning operation area. Washwaters from vehicle, equipment, and parts cleaning areas are process wastewaters that are not authorized discharges under this section.

These four areas are sources of pollutants in storm water from automobile salvage yards. EPA believes that the incorporation of BMPs such as those suggested, in conjunction with a pollution prevention plan, will substantially reduce the potential of storm water contamination from these areas. In addition, EPA believes that these requirements continue to provide the necessary flexibility to address the variable risk for pollutants in storm water discharges associated with different facilities.

(a) Preventive Maintenance—Permittees are required to develop a preventive maintenance program that includes regular inspections and maintenance of storm water BMPs. The purpose of the inspections, which may coincide with the inspections required in (b) below, is to check on the effectiveness of the storm water pollution prevention plan. The inspections allow facility personnel to monitor the success or failure of elements of the plan on a regular basis. The use of an inspection checklist should be considered. The checklist will ensure that all required areas are inspected, as well as help to meet the recordkeeping requirements. In addition to regular inspections, employees identifying potential problems during their daily activities, such as leaks or spills, shall take appropriate measures to address these problems as soon as feasible.

(b) Inspections—This section requires that in addition to the comprehensive site evaluation required under Part XI.M.3.a. of today's permit, qualified facility personnel shall be identified to inspect: upon arrival, or as soon as feasible thereafter, all vehicles for leaks; any equipment containing oily parts, hydraulic fluids, or any other fluids, at least quarterly for leaks; and any outdoor storage containers for liquids, including, but not limited to, brake fluid, transmission fluid, radiator water, and anti-freeze, at least quarterly for leaks.

In addition, qualified facility personnel are required to conduct, at a minimum, quarterly visual inspections of BMPs. The inspections shall include: (1) an assessment of the integrity of any flow diversion or source minimization systems; and (2) visual inspections of dismantling areas; outdoor vehicle, equipment, and parts storage area; vehicle and equipment maintenance areas; vehicle, equipment, and parts washing areas; and liquid storage in above ground containers. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections.

The quarterly inspections must be made at least once in each of the following designated periods during daylight hours: January through March (storm water runoff or snow melt); April through June (storm water runoff); July through September (storm water runoff); October through December (storm water runoff). Records of inspections shall be maintained as part of the plan.

(c) Employee Training—Permittees are required to include a schedule for conducting training in the plan. EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan. Employee training must, at a minimum, address the following areas when applicable to a facility: used oil management; spill prevention and response; good housekeeping practices; used battery management; and proper handling (i.e., collection, storage, and disposal) of all fluids. This training should serve as: (1) training for new employees; (2) a refresher course for existing employees; and (3) training for all employees on any storm water pollution prevention techniques recently incorporated into the plan, where appropriate, contractor personnel also must be trained in relevant aspects of storm water pollution prevention.

(d) Recordkeeping and Internal Reporting—Permittees must describe procedures for developing and retaining records on the status and effectiveness of plan implementation. The plan must address spills, monitoring, and BMP inspection and maintenance activities. Ineffective BMPs must be reported and the date of their corrective action noted.

(e) Storm Water Management—The permittee must evaluate the appropriateness of each storm water BMP that diverts, infiltrates, reuses, or otherwise reduces the discharge of contaminated storm water. In addition, the permittee must describe the storm water pollutant source area or activity (i.e., loading and unloading operations, raw material storage piles etc.) to be controlled by each storm water management practice.

(3) Comprehensive Site Compliance Evaluation. The storm water pollution prevention plan must describe the scope and content of comprehensive site evaluations that qualified personnel will conduct to: (1) confirm the accuracy of the description of potential pollution sources contained in the plan; (2) determine the effectiveness of the plan; and (3) assess compliance with the terms and conditions of this section. Comprehensive site compliance evaluations should be conducted at least once a year for automobile salvage yards. These evaluations are intended to be more in depth than the quarterly visual inspections. The individual or individuals who will conduct the evaluations must be identified in the plan and should be members of the pollution prevention team. Evaluation reports must be retained for at least 3 years after the date of the evaluation.

Based on the results of each evaluation, the description of potential pollution sources, and measures and controls, the plan must be revised as appropriate within 2 weeks after each evaluation. Changes in the measures and controls must be implemented on the site in a timely manner, and never more than 12 weeks after completion of the evaluation.

6. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. EPA believes that automobile salvage yards may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan and to characterize the discharge for potential environmental impacts, the permit requires automobile yards to collect and analyze samples of their storm water discharges for the pollutants listed in Table M–4. The pollutants listed in Table M–4 were found to be above benchmark levels for a significant portion of sampling facilities that submitted quantitative data in the group application process. EPA is requiring monitoring for these pollutants after the pollution prevention

plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

At a minimum, storm water discharges from automobile salvage yards must be monitored quarterly during the second year of permit coverage, unless the facility exercises the Alternative Certification in Section VI.E.3 of this fact sheet. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Table M–4. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE M–4.—INDUSTRY MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Suspended Solids	100 mg/L.
Total Recoverable Aluminum	0.75 mg/L.
Total Recoverable Iron	1.0 mg/L.
Total Recoverable Lead	0.0816 mg/L.

If the average concentration for a parameter is less than or equal to the value listed in Table M–4, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Table M–4, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. The schedule of monitoring is presented in Table M–5.

TABLE M–5.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table M–4, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table M–4, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table M–4. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative certification described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis, in lieu of sampling described under Part VIII.M.6.a of this factsheet, under penalty of law, signed in accordance with Part VII.G (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity, that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in lieu of monitoring reports. The permittee is required to complete any and all sampling until the exposure is eliminated. If the facility is reporting for a partial year, the permittee must specify the date exposure was eliminated. If the permittee is certifying that a pollutant was present for part of the reporting period, nothing relieves the permittee from the responsibility to sample that parameter up until the exposure was eliminated and it was determined that no significant materials remained. This certification is not to be confused with the low concentration sampling waiver. The test for the application of this certification is whether the pollutant is exposed, or can reasonably be expected to be present in the storm water discharge. If the facility does not and has not used a parameter, or if exposure is eliminated and no significant materials remain, then the facility can exercise this certification. The Agency does not expect that

facilities will be able to use the alternative certification for indicator parameters such as TSS and BOD. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report Form must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

f. Quarterly Visual Examination of Storm Water Quality: All automobile salvage yard facilities are required to conduct quarterly visual examinations of storm water discharges from each outfall. The examination of storm water grab samples shall include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples. The examinations must be of a grab sample collected from each storm water outfall.

The examination must be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The examinations shall be made during daylight unless there is insufficient rainfall or snow-melt to runoff. Whenever practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

N. Storm Water Discharges Associated With Industrial Activity From Scrap Recycling and Waste Recycling Facilities

1. Industry Profile

Specific requirements have been established for those facilities that are engaged in the processing, reclaiming and wholesale distribution of scrap and recyclable waste materials. As background, the storm water regulations define 11 categories of storm water discharges associated with industrial activity in 40 CFR 122.26(b)(14). Category (vi) includes facilities that are engaged in the recycling of materials, including metal scrapyards, battery reclaimers, and salvage yards, including but limited to those classified Standard Industrial Classification (SIC) 5093. For purposes of this section, special conditions have been included for those facilities engaged in the reclaiming and retail/wholesale distribution of used

motor vehicle parts identified as SIC 5015 in Part XI.M.

SIC 5093 includes establishments engaged in assembling, breaking up, sorting and the wholesale distribution of scrap and recyclable waste materials including bag, bottle and box wastes, fur cuttings, iron and steel scrap, metal and nonferrous metal scrap, oil, plastics, rags, rubber, textiles, waste paper, aluminum and tin cans, and rag wastes. For purposes of this permit, the term waste recycling facility applies to those facilities that receive a mixed wastestream of non-recyclable and recyclable wastes. The term recycling facility applies to those facilities that receive only source-separated recyclable materials primarily from non-industrial and residential sources. For purposes of this permit the term recycling facility also applies to those facilities commonly identified as material recovery facilities (MRF).

Part XI.N of the permit is segregated into three separate classes of recycling facilities: (1) scrap recycling and waste recycling facilities (non-liquid recyclable wastes); (2) liquid recyclable waste facilities; and (3) recycling facilities. Each of these three classes of recycling facilities have separate pollution prevention plan and monitoring requirements. EPA further clarifies that battery reclaimers engaged in the breaking up of used lead-acid batteries are not eligible for coverage under this permit. Facilities that participated in U.S. Environmental Protection Agency (EPA) Group Permit Applications 195, 274, 467, 596, 647 (except facilities identified as SIC 4212), 826, 1035, 1145 and 1204 are eligible for coverage under this section.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Pollutants Found in Storm Water Discharges

This fact sheet is organized into three major subsections: scrap and waste recycling facilities (nonliquid wastes); industrial activities engaged in reclaiming and recycling liquid wastes, e.g., used oils, solvents, mineral spirits and antifreeze; and recycling facilities (including material recovery facilities) that receive only source-separated recyclable materials primarily from non-industrial and residential sources including waste paper, newspaper, glass bottles, plastic containers, aluminum and tin cans, and cardboard. Industrial operations and BMPs associated with these three groups are dissimilar enough to warrant establishing separate permit conditions for each group. Therefore, conditions for each of these three groups are identified separately.

a. Scrap and Waste Recycling Facilities (SIC 5093) (nonliquid recyclable wastes). The scrap recycling and waste recycling industry reclaims, processes and provides wholesale distribution of a diversity of materials and products. Typical recyclable materials include ferrous and nonferrous metals, paper, cardboard, animal hides, glass and plastic. Inbound recyclable materials are processed onsite in order to achieve a uniform grade product that meets a particular manufacturer's specifications. A significant inventory of processing equipment is frequently required to process recyclable waste material into a uniform grade. Processing equipment typically employ enormous physical forces such as shearing, shredding, and compacting in the process of eventually achieving a desired uniform grade product.

Individual scrap and waste recycling facilities may process one or more types of recyclable materials at a single site. Depending on the requirements of a manufacturer, recyclable waste materials, e.g., paper and cardboard, may need to be stored under cover to prevent deterioration. The bulk size of the recyclable waste materials and the processing equipment associated with these facilities frequently necessitates stockpiling materials and equipment outdoors. Consequently, there is significant opportunity for exposure of storm water runoff to pollutants. The extent of material potentially exposed to storm water runoff is illustrated in the following table based on information provided from one group application consisting of approximately 1,100 members.

TABLE N–1.—PERCENTAGE OF APPLICANTS IN ONE GROUP APPLICATION THAT PROVIDE COVER OVER MATERIALS OR PROCESSES

Material/processes	Percent of applicants
Ferrous Materials	8.6
Nonferrous Materials	53
Glass/plastic/paper	14
Other Materials	1.7
Material Processing Equipment	43

There are at least four types of activities that are common to most scrap and waste recycling facilities, they include: scrap waste material stockpiling, material processing, segregating processed materials into uniform grades, and collecting nonrecyclable materials for disposal. This fact sheet outlines pollutants of concern associated with each of these types of activities. Other operations of concern, including vehicle and equipment maintenance, are also discussed in this fact sheet.

(1) Pollutants Associated With Material Stockpiling. During material stockpiling, including unloading and loading areas, the potential exists for some types of inbound recyclable materials to deposit residual fluids on the ground. Used automotive engines, radiators, brake fluid reservoirs, transmission housings, and lead-acid from batteries may contain residual fluids that, if not properly managed, can eventually come in contact with storm water runoff. For example, sampling data from two group applications indicated the presence of oil and grease in 103 individual grab samples. In response to other Federal and State environmental regulations, such as the Resource Conservation and Recovery Act (RCRA), many scrap recycling and waste recycling facilities have instituted inspection and supplier education programs to minimize or eliminate the amount of inbound recyclable materials containing fluids and other potentially hazardous materials prior to their acceptance. Part XI.N.3.a.(3)(a)(i) of today's permit imposes conditions that will make an inbound recyclable materials inspection program part of the pollution prevention plan.

Another concern of outdoor stockpiling, including unloading and loading areas, is associated with deterioration of materials. Metal surfaces that are stockpiled for extended periods may be subject to corrosion. Corrosion is the deterioration of metal surfaces that typically results in the loss of metal to a solution, i.e., water. The following metals are referred to as the

galvanic (or electromotive) series and have a tendency to corrode and become soluble in water; magnesium, aluminum, cadmium, zinc, steel or iron, cast iron, chromium, tin, lead, nickel, soft and silver solder, copper, stainless steel, silver, gold, platinum, brass and bronze. For some metals, the extent and rate of corrosion is dependent on whether it occurs in an oxygen-starved or oxygen-abundant atmosphere.

Corrosion of stockpiled materials at scrap recycling facilities is a potential source of pollutants given that metals such as copper, lead, nickel, zinc, chromium and cadmium were frequently detected in sampling data. In addition, the majority of these metals are associated with recyclable materials handled by the scrap recycling industry. Part XI.N.3.a.(3) of today's permit identifies BMP options to address these sources.

Another significant material of concern is the acceptance and temporary storage of scrap lead acid batteries from automotive vehicles and equipment. If a battery casing becomes cracked or damaged, special precautions are necessary to ensure that the contents do not come in contact with storm water runoff. This includes battery terminals with visible corrosion. In all cases, used batteries shall be handled and stored in such a manner as to prevent exposure to either precipitation or runoff. Part XI.N.3.a.(3) addresses conditions for these sources.

The following table presents a list of typical materials that may be received and processed at a scrap and waste recycling facility and which may be potential pollutant sources if they are not managed properly.

TABLE N–2.—SIGNIFICANT MATERIALS POTENTIALLY EXPOSED TO STORM WATER RUNOFF AT SCRAP AND WASTE RECYCLING FACILITIES [1]

Significant materials	Potential sources	Pollutants of concern
White goods (appliances)	Leaking oil-filled capacitors, ballasts, leaking compressors, pumps, leaking pressure vessels, reservoirs, sealed electrical components and chipped or deteriorated painted surfaces.	PCBs, oil, lubricants, paint pigments or additives such as lead, and other heavy metals.
Ferrous and nonferrous turnings and cuttings	Cutting oil residue, metallic fines	Oil, heavy metals.
Materials from demolition projects	Deteriorated/damaged insulation, chipped painted surfaces, lead, copper, and steel pipes.	Asbestos fibers, lead, copper, zinc, cadmium, other metals, TKN.
Electrical components, transformers, switch gear, mercury float switches, sensors.	Leaking oil-filled transformer casings, oil-filled switch, float switches, radioactive materials in gauges, sensors.	PCBs, oils, mercury, ionizing radioactive isotopes.
Fluorescent lights, light fixtures	Leaking ballasts	PCBs, oil.
Food/beverage dispensing equipment	Leaking fluorescent light ballasts, chipped painted surfaces.	PCBs, oil, heavy metals from paint pigments and additives.
Hospital and dental waste and equipment	Drums/containers of hospital waste, shielding from diagnostic and other medical equipment, radioactive materials from gauges, sensors and diagnostic equipment.	Infectious/bacterial contamination, lead, ionizing radioactive isotopes.
Instruments	Radioactive material from thickness gages	Ionizing radioactive isotopes.
Insulated wire	Insulation and other coatings, wire	Lead, zinc, copper.
Lawnmowers, snowmobiles, motorcycles	Leaking engines, transmissions, fuel, oil reservoirs,leaking batteries.	Oils, transmission and brake fluids, fuel, grease, battery acid, lead acid.
Light gage materials	Deteriorating insulation, painted surfaces and other coatings.	Asbestos, lead, chromium.
Locomotives, rail cars	Leaking fuel reservoirs, fittings, hydraulic components, engines, bearings, compressors, oil reservoirs, worn brake pads, damaged insulation.	PCBs, diesel fuel, hydraulic oil, oil, brake fluid, grease from fittings, asbestos.
Motor vehicle bodies, engines, transmissions, exhaust systems.	Leaking fuel tanks, oil reservoirs, transmission housings, brake fluid reservoir and lines, brake cylinders, shock absorber casing, engine coolant, wheel weights, leaking battery casings/housings and corroded terminals, painted surfaces and corrosion inhibitors, exhaust system, catalytic converters.	Fuel, benzene, oil, hydraulic oil, transmission fluids, brake fluids, ethylene glycol (antifreeze), lead, lead acid, lead oxides, cadmium, zinc, other heavy metals.
Miscellaneous machinery and obsolete equipment.	Leaking reservoirs, damaged or chipped painted surfaces/coatings.	Fuel, oil, lubricants, lead, cadmium, zinc.
Pipes/materials from chemical and industrial plants.	Chemical residue, insulation, lead piping, chipped or damaged painted surfaces and protective coatings.	Chemical residue, oil, lubricants, damaged insulation (asbestos), lead, cadmium, zinc, copper.
Sealed containers, hydraulic cylinders	Leaking liquid reservoirs, containers, cylinders, miscellaneous chemicals.	Oil, PCBs, solvents, chemical residue.
Salvaged construction materials	Chemical residues, oils, solvents, lubricants, damaged insulation, chipped painted surfaces and protective coatings.	Chemical residue, oily wastes, asbestos, lead, cadmium, zinc.
Tanks, containers, vessels, cans, drums	Leaking or damaged containers	Chemical residue, oily wastes, petroleum products, heating oil.
Transformers (oil filled)	Leaking transformer housings	PCBs, oil.

[1] Institute of Scrap Recycling Industries, Inc.'s "Environmental Operating Guidelines." (April 1992)

(2) Material Processing. The type of processes employed at a particular facility depends on the type of recyclable and waste material. Typical processes include: torch cutting, shredding, baling, briquetting, wire stripping and chopping, and compacting. Processes such as shredding and shearing reduce the bulk size of recyclable scrap and waste into a size that is more easily transportable and which allows separation into uniform grades based on manufacturer specifications. Processes such as shredding of automotive bodies include a means of segregating materials into their ferrous and nonferrous fractions.

Process equipment at scrap recycling and waste recycling facilities are also potential sources of pollutants in storm water runoff. The sources of concern will be discussed separately. Scrap process equipment such as shearers are often actuated by a hydraulic system. Components such as hydraulic reservoirs, hydraulic pumps, motors, cylinders, control valves, accumulators, filters, and fittings are prone to leaking hydraulic fluid. Some hydraulic machinery also require frequent lubrication of cutting and wear surfaces. Storm water runoff exposure to hydraulic fluids and other lubricants is very likely unless adequate source control measures such as good housekeeping, preventive maintenance, diversion and/or containment are provided.

Stationary process equipment also produce a substantial amount of residual particulate material that tends to accumulate on and around the equipment, particularly rotating machinery, moving parts, bearings, conveyors and at the output of the equipment, e.g., storage containers. Particulate material that accumulates can become a source of contamination if it comes in contact with both precipitation and storm water runoff. Other sources of residual particulate and waste material include air pollution equipment, material handling equipment and processing equipment. In the case of shredding equipment, there are typically three (3) separate material streams produced. Shredded material is ultimately separated into its ferrous and nonferrous fractions, and a third stream referred to as fluff. The fluff material consists of a heterogeneous mix of materials including, but not limited to, small metal fragments, plastics, rubber, wood and textiles. After the material exits the shredder (hammermill), it typically enters an air classification system that separates the lightweight fraction, e.g., particulates, from the more dense fraction. The ferrous metal fraction is then separated from the nonferrous fraction and fluff by the use of a magnetic separator (typically a belt- or drum-type magnetic separator). The separated material may be collected in a hopper or it may accumulate on the ground. If recyclable and nonrecyclable waste material is allowed to accumulate on the ground, a greater potential exists for this material to come in contact with either precipitation or storm water runoff.

The scrap and recycling industry uses a diversity of processes to reclaim and recycle materials that can contribute pollutants to storm water runoff. The following table presents a list of typical scrap equipment operations which are potential pollutant sources.

TABLE N–3.—TYPICAL PROCESS AND EQUIPMENT OPERATIONS THAT ARE LIKELY SOURCES OF POLLUTANTS[1]

Activity	Potential sources	Pollutants of concern
Air Pollution Equipment (including incinerators, furnaces, wet scrubbers, filter houses, bag houses).	Normal equipment operations that include the collection and disposal of filter bag material and ash, process wastewater from scrubbers, accumulation of particulate matter around leaking joint connections, malfunctioning pumps and motors, e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings.	Hydraulic fluids, oils, fuels, grease and other lubricants, accumulated particulate matter, chemical additives, PCBs from oil-filled electrical equipment.
Combustion Engines	Spills and/or leaks from fueling tanks, spills/leaks from oil/hydraulic fuel reservoirs, faulty/leaking hose connections, worn gaskets, leaking transmission crankcases and brake systems (if applicable), leaking battery casings and/or corroded terminals.	Accumulated particulate matter, oil/lubricants, fuel (gas/diesel), fuel additives, antifreeze (ethylene glycol), battery acid, products of incomplete combustion.
Material Handling Systems (forklifts, cranes, conveyors).	Normal operations including spills and leaks from fuel tanks, hydraulic and oil reservoirs due to malfunction parts, e.g., worn gaskets and parts, leaking hose connections, and faulty seals. Damaged or faulty electrical switches (mercury filled) Damaged or leaking battery casings, including exposed corroded battery terminals. Damaged or worn bearing housings.	Hydraulic fluids, oils, fuels and fuel additives, grease and other lubricants, accumulated particulate matter, chemical additives, mercury, lead, battery fluids.
Stationary Scrap Processing Facilities (balers, briquetters, shredders, shearers, compactors, engine block/cast iron breakers, wire chopper, turnings crusher).	Normal equipment operations including leaks from hydraulic reservoirs, hose and fitting connections, worn gaskets, spills or leaks from fuel tanks, particulates/residue from scrap processing, malfunctioning pumps and motors, e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings.	Heavy metals, e.g., zinc, copper, lead, cadmium, chromium, hydraulic fluids.
Hydraulic equipment and systems, balers/briquetter, shredders, shearers, compactors, engine block/cast iron breaker, wire chopper, turnings crusher.	Particulate/residue from material processing, spills and/or leaks from fueling tanks, spills/leaks from oil/hydraulic fuel reservoirs, faulty/leaking hose connections/fittings, leaking gaskets.	Hydraulic fluids/oils, lubricants, particulate matter from combustion engines, PCBs (oil-filled electrical equipment components), heavy metals (nonferrous, ferrous).

TABLE N–3.—TYPICAL PROCESS AND EQUIPMENT OPERATIONS THAT ARE LIKELY SOURCES OF POLLUTANTS[1]—Continued

Activity	Potential sources	Pollutants of concern
Electrical Control Systems (transformers, electrical switch gear, motor starters).	Oil leakage from transformers, leakage from mercury float switches, faulty detection devices.	PCBs, mercury (float switches), ionizing radioactive material (fire/smoke detection systems).
Torch cutting	Residual/accumulated particulates	Heavy metal fragments, fines.

[1] Institute of Scrap Recycling Industries, Inc.'s "Environmental Operating Guidelines." (April 1992)

(3) Segregation of Processed Materials into Uniform Grades. Processing, e.g., shearing, shredding, baling, etc., of recyclable materials is followed by its segregation into uniform grades to meet a particular manufacturer's specifications. If segregated recyclable material remains exposed to precipitation, the potential still exists for storm water contamination.

(4) Disposal of Nonrecyclable Waste Materials. During recycling of scrap and waste materials, a significant fraction of nonrecyclable waste materials is generated and must be disposed of properly. The volume or quantity of material that remains nonrecyclable may be too large to allow covered storage prior to shipment. Consequently, nonrecyclable waste materials may be left exposed to both precipitation and runoff and, therefore, they are a likely source of storm water pollutants.

(5) Other Operations of Concern. There are a number of activities of concern that frequently occur at scrap and waste recycling facilities including, heavy vehicle traffic over unstabilized areas, vehicle maintenance and fueling, and material handling operations. Operations associated with the receipt, handling, and processing of scrap and waste material frequently occur over areas that are not stabilized to prevent erosion. Unless specific measures or controls are provided to either prevent erosion or trap the sediment, this material will be carried away in storm water runoff and eventually exit the site. Suspended solids are of significant concern given the potential amount of unstabilized area and the significant amount of particulate matter that is often produced at these facilities. For example, many facilities use spray water for dust control on heavily traveled areas. Both organic and inorganic pollutants can become bound up or absorbed to suspended solids in runoff. For this reason, today's proposed permit identifies conditions to minimize the contribution of suspended solid loadings from these facilities.

Some scrap and waste recycling facilities may also conduct vehicle maintenance onsite. Although vehicle maintenance frequently occurs indoors, there are specific activities which could contribute pollutants to storm water. This includes washdown of vehicle maintenance areas, leaks or spills of fuel, hydraulic fluids and oil and outdoor storage of lubricants, fluids, oils and oily rags. Fueling stations are also frequently located outdoors without any roof cover. Activities such as topping off fuel tanks, or overfilling storage tanks (without high-level alarms or automatic shut-offs) are also activities that can cause contamination of runoff. Vehicle washing can result in accumulated residue material being discharged to a storm sewer system.

The following table highlights activities associated with vehicle maintenance and material handling that are potential sources of storm water contamination.

TABLE N–4.—OTHER POTENTIAL POLLUTANT SOURCE ACTIVITIES

Activity	Potential sources	Pollutants of concern
Material Handling Systems (forklifts, cranes, conveyors).	Spills and/or leaks from fueling tanks, spills/leaks from oil/hydraulic fuel reservoirs, faulty/leaking hose connections/fittings, leaking gaskets.	Accumulated particulate matter (ferrous and nonferrous metals, plastics, rubber, other), oil/lubricants, PCBs (electrical equipment), mercury (electrical controls), lead/battery acids.
Vehicle Maintenance	Parts cleaning, waste disposal of rags, oil filters, air filters, batteries, hydraulic fluids, transmission fluids, brake fluids, coolants, lubricants, degreasers, spent solvents.	Fuel (gas/diesel), fuel additives, oil/lubricants, heavy metals, brake fluids, transmission fluids, chlorinated solvents, arsenic.
Fueling Stations	Spills and leaks during fuel transfer, spills due to "topping off" tanks, runoff from fueling areas, washdown of fueling areas, leaking storage tanks, spills of oils, brake fluids, transmission fluids, engine coolants.	Gas/diesel fuel, fuel additives, oil, lubricants, heavy metals.
Vehicle and Equipment Cleaning and Washing	Washing and steam cleaning	Solvent cleaners, oil/lubricants/additives, antifreeze (ethylene glycol).

(6) Pollutants Found in Storm Water Discharges. Sampling data provided in part 2 of the group application process revealed that storm water discharges from scrap and waste recycling facilities contain pollutants such as heavy metals, Biochemical Oxygen Demand (BOD), Chemical Oxygen Demand (COD), TSS, nutrients and oil and grease. The following table summarizes the statistical analysis of sampling data provided in part 2 group applications. Table N–6 provides a comparison of a selected subset of these pollutants to benchmark concentrations.

TABLE N–5.—SUMMARY STATISTICS FOR SCRAP AND WASTE RECYCLING FACILITIES[i] (SIC 5093) (Nonliquid Recyclable Waste Materials.) All units in mg/L unless otherwise noted

Pollutant Sample type	No. of samples		Mean		Minimum		Maximum		Median		99th Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
pH (std units)	136	N/A	N/A	N/A	4.93	N/A	10.2	N/A	N/A	N/A	9.58	N/A
BOD_5	131	120	23.49	24	0.00	0.00	330.0	360	9.0	9.0	330.0	330.0
COD	131	117	251.33	204	0.00	0.00	1588.0	2400	120.0	110.0	1323	1014
TSS	131	116	437.11	375	0.00	0.00	3894	6042	148.0	84.5	3100	1660
Nitrate + Nitrite N	130	117	1.76	5.9	0.00	0.00	84.0	220.0	0.61	0.80	28	129.0
TKN	132	114	3.44	3.4	0.00	0.00	43.0	39.0	2.05	2.20	25	22.0
Oil and Grease	136	N/A	8.95	N/A	0.00	N/A	85.0	N/A	5.0	N/A	60	N/A
Total P	133	114	0.81	0.77	0.00	0.00	36.0	29.0	0.29	0.28	4.7	10.0
Total Pb	103	100	0.85	0.84	0.00	0.00	8.70	13.00	0.205	0.215	4.9	11.00
Total Cd	75	73	0.02	0.02	0.000	0.000	0.10	0.65	0.0074	0.005	0.069	.65
Total Cu	102	99	0.77	0.60	0.000	0.000	12.0	8.20	0.26	0.22	5.98	5.2
Total Zn	97	94	3.16	3.2	0.028	0.000	22.0	38.0	1.50	1.4	22.0	38.0
Total Cr	103	100	0.08	0.122	0.000	0.000	2.10	2.60	0.03	0.02	0.547	2.3
Total Fe	5	5	25.4	9.80	0.8	0.0	74.0	20.0	10.0	14.0	72.7	19.8
Total Ni	94	93	0.202	0.21	0.001	0.000	5.80	7.30	0.05	0.040	5.8	7.3
Arsenic	9	8	0.038	0.019	0.00	0.00	0.170	0.90	0.005	0.005	0.170	0.090
Total Al	5	3	4.86	3.327	.68	.68	10.0	7.6	4.0	1.70	10.0	7.6
PCB–1016	27	26	0.001	0.051	0.001	0.001	0.010	1.30	0.001	0.001	0.010	1.3
PCB–1221	26	24	0.001	0.001	0.001	0.000	0.010	0.001	0.001	0.001	0.010	0.001
PCB–1232	26	26	0.001	0.001	0.001	0.000	0.010	0.001	0.001	0.001	0.010	0.001
PCB–1242	27	26	0.001	0.047	0.000	0.000	0.010	1.30	0.001	0.001	0.010	1.3
PCB–1248	26	24	0.003	0.005	0.000	0.000	0.025	0.078	0.001	0.001	0.025	0.078
PCB–1254	28	26	0.001	0.001	0.000	0.000	0.010	0.006	0.001	0.001	0.010	0.006
PCB–1260	28	26	0.002	0.049	0.001	0.000	0.011	1.30	0.001	0.001	0.011	1.3

[i] Applicants that did not report the units of measurement for the reported values were not included in these statistics.
[ii] Composite samples.

TABLE N–6.—COMPARISON SAMPLING DATA FOR SELECTED PARAMETERS VERSUS BENCHMARK CONCENTRATIONS (MG/L)

Pollutant Sample type	Mean		Maximum		Median		Benchmark
	Grab	Comp	Grab	Comp	Grab	Comp	
COD	251	204	1588	2400	120	110	120
TSS	437	375	3894	6042	148	84.5	100
Total Pb	0.85	0.84	8.70	13.00	0.205	0.215	0.0816
Total Cu	0.77	0.60	12.0	8.20	0.26	0.22	0.0636
Total Fe	25.4	9.80	74.00	20.00	10.00	14.00	1.0
Total Al	4.86	3.327	10.0	7.6	4.0	1.70	0.075
Total Zn	N/A	3.2	22.0	38.0	1.5	1.4	0.065

b. Waste Recycling Facilities (SIC 5093)—(Liquid Recyclable Wastes). This subsection applies to those facilities engaged in the reclaiming and recycling of liquid wastes such as "spent solvents," "used oil," and "used ethylene glycol" typically identified under SIC 5093. This subsection is particularly applicable to those facilities that participated in EPA group application number 195. EPA received a single group application in this category of waste recycling facilities. The following is a profile of industrial activities and the types of significant materials associated with facilities participating in this group activity.

Group application number 195 included 220 facilities of which 214 were classified as service centers. Service centers accumulate spent solvent, used oil and antifreeze, filter cartridges and still bottoms contaminated with dry cleaning solvents (typically perchloroethylene), and used lacquer thinner from paint gun cleaning machines. The typical service center has individual containers with storage capacity of up to 10,000 gallons each, and tanks with storage capacity of up to 20,000 gallons each. Service centers are typically limited to a maximum of 6 tanks (a total of 120,000 gallons). Twenty (20) of the service centers also function as accumulation centers where they have a maximum storage capacity of 70,000 gallons of liquid materials in containers. None of the containers are opened except under conditions where a container begins to leak or is damaged.

The group application also included four (4) facilities that operated only as container transfer stations and do not operate storage tanks. These facilities are largely enclosed warehouses that provide secondarily contained storage areas. Three (3) facilities were identified as used oil depots where only oily water and/or used oil are accumulated in storage tanks. Storage tanks are limited to a maximum capacity of 20,000 gallons each. Used oil is transported to the facility in tanker trucks (3,500 gallons) and shipped out in tanker trucks (7,500 gallons). The used oil is ultimately transported to a processing or re-refining facility (not covered under this section). The following table summarizes the percentage of facilities with significant materials stored.

TABLE N–7. SIGNIFICANT MATERIALS REPORTED IN GROUP APPLICATION NUMBER 195

Significant materials	Percent of facilities
Mineral Spirits	98
Immersion Cleaner	98
Dry Cleaner Solvents	98
Paint Solvents	83
Industrial Solvents	81
Spent Antifreeze	59
Used Oil	57
Allied Products	98

The types of materials identified in Table N–7 are potential sources of storm water runoff contamination. Since these materials are stored and transported in individual drums and bulk storage tanks, the potential exists for spills and/or leaks during all phases of waste transport, waste transfer, container/drum handling and shipping.

There are a number of operations at these facilities that have significant potential to release pollutants to the environment if recyclable waste materials are not managed properly. Potential sources of pollutants are discussed in Part XI.N.3.a.(2) of today's permit. However, in response to other Federal and State environmental regulations, such as RCRA and 40 CFR Part 112 (Oil Pollution Prevention), facilities in this group application currently employ a range of the BMPs and structural controls that also benefit storm water quality. Typical measures and controls for controlling pollutants for facilities in this subsection are presented in Part XI.N.3.a.(3)(b).

(1) Waste Material Handling and Storage. Given the nature and type of materials stored and handled at these facilities, the potential exists for accidental spills and leaks. Consequently, the types of activities that occur at these facilities which could potentially result in contamination of storm water runoff is also of concern to EPA. The following table is a list of activities which may result in a release of pollutants.

TABLE N–8. TYPES OF POTENTIAL POLLUTANT-CAUSING ACTIVITIES AT WASTE RECYCLING FACILITIES THAT HANDLE LIQUID RECYCLABLE WASTES

Activity	Potential sources of pollutants	Pollutants of concern
Drum/Individual Container Storage and Handling.	Leaks or spills due to faulty container/drum integrity, e.g., leaking seals or ports. Container materials incompatible with waste material. Improper stacking and storage of containers.	Mineral spirits, industrial solvents, immersion cleaners, dry cleaner solvents, paint solvents, spent antifreeze.
Return and Fill Stations	Leaks, spills, or overflows from tanker truck transfer of wastes and hose drainage. Leaking pipes, valves, pumps, worn or deteriorated gaskets or seals.	Mineral spirits, industrial solvents, immersion cleaners, dry cleaner solvents, paint solvents, spent antifreeze.
Individual Container/Drum Storage Improper Stacking and Storage of Containers.	Leaks or spills due to faulty container/drum integrity, e.g., leaking seals or ports.	Mineral spirits, industrial solvents, immersion cleaners, dry cleaner solvents, paint solvents, spent antifreeze.
Storage Tank Operations	Overfill of storage tanks, leaking pipes, valves, worn or deteriorated pumps seals. Leaking underground storage tanks.	Mineral spirits, industrial solvents, immersion cleaners, dry cleaner solvents, paint solvents, spent antifreeze.
Material Handling Equipment	Leaking fuel lines, worn gaskets, leaking hydraulic lines and connections.	Fuel, hydraulic fluid, oil and grease.

(2). Other Activities of Concern. The following table highlights other types of activities that are potential sources of storm water contamination.

TABLE N–9. OTHER POTENTIAL SOURCES OF STORM WATER CONTAMINATION

Activity	Potential sources of pollutants	Pollutants of concern
Vehicle and Equipment Maintenance (if applicable).	Replacement of fluids such as transmission and brake fluids, antifreeze, oil and other lubricants, washdown of maintenance areas, dumping fluids down floor drains connected to storm sewer system, outside storage of fluids and oily rags and waste material.	Oil and grease, fuel, accumulated particulate matter, antifreeze.
Vehicle or Equipment Washing (if applicable)	Wash water or steam cleaning	Oil, detergents, chlorinated solvents, suspended solids and accumulated particulate matter.

(3). Pollutants Found in Storm Water Discharges. Based on data provided in group application sampling information, pollutants that were most frequently reported included TSS, BOD, COD, nitrite plus nitrate, oil and grease. The following table provides a statistical summary of data.

TABLE N–10. SUMMARY STATISTICS FOR WASTE RECYCLING FACILITIES[i] (SIC 5093)—(RECYCLABLE LIQUID WASTES). ALL VALUES IN MG/L

Parameter / Sample type	# of Samples		Mean		Min		Max		Median		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	22	17	18	9	2	2	94	48	5	5	79	38

TABLE N–10. SUMMARY STATISTICS FOR WASTE RECYCLING FACILITIES[i] (SIC 5093)—(RECYCLABLE LIQUID WASTES). ALL VALUES IN MG/L—Continued

Parameter Sample type	# of Samples		Mean		Min		Max		Median		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
COD	22	17	133	83	12	5	660	400	45	45	449	320
TSS	21	16	51	28	5	5	500	84	28	20	68	59
Nitrite + Nitrate	22	17	0.90	0.78	0.05	0.05	3.70	3.50	0.61	0.38	3.45	3.29
TKN	22	17	3.1	2.0	1.0	1.0	11.0	6.0	1.5	1.0	9.9	5.7
Oil and Grease	22	N/A	1.8	N/A	1.0	N/A	5.0	N/A	1.5	N/A	4.0	N/A

[i] Applicants that did not report the units of measurement for the reported values were not included in these statistics.
[ii] Composite samples.

c. *Recycling Facilities.* This particular group of recycling facilities is distinguished from scrap recycling facilities and waste recycling facilities that accept a mixed wastestream of non-recyclable and recyclable wastes. Facilities included in this sub-sector would include only those facilities that receive source-separated, recyclable materials primarily from non-industrial and residential sources. This includes source-separated material recovery facilities (MRF). EPA Group Applications 274, 647, 826, and 1145 included significant numbers of facilities that would fall within this sub-sector. The recyclable materials in this sub-sector can be characterized as common consumer products such as paper, newspaper, cardboard, plastic containers, glass bottles, aluminum and tin cans. These facilities commonly accept a mix of recyclable materials and reject non-recyclable materials at the source.

(1) *Pollutant-Causing Activities Associated with Recycling Facilities.* There are basically four areas associated with these facilities that are potential sources of pollutants, they include: (1) Inbound recyclable materials; (2) outdoor material storage; (3) indoor storage and material processing; and (4) vehicle maintenance. The potential exists that recycling facilities may unknowingly accept nonrecyclable materials and/or small quantities of household hazardous wastes (HHW). If these materials are not handled, stored or disposed of properly, they could become potential pollutant sources. Recycling facilities are already aware of this issue and have commonly instituted practices to minimize accepting such materials. These practices include public education brochures, training of curbside pick-up drivers, and rejecting non-recyclable materials at the source.

Outdoor material storage is another issue of concern given the practice of storing degradable, recyclable products outdoors such as bales of wastepaper and various types of recyclable containers containing residual fluids, e.g., beverage containers. Wastepaper exposed to weather will deteriorate and can be a source of oxygen-demanding substances. For example, biochemical oxygen demand (BOD) concentrations as high as 152 mg/l were measured at facilities that store wastepaper outdoors. Similarly, recycling facilities that stored unprocessed aluminum beverage containers outdoors can be a contaminant source of oxygen-demanding substances. BOD concentrations as high as 460 mg/l were measured at recycling facilities that store unprocessed recyclable containers outdoors.

The third area of concern is indoor processing and storage. EPA is primarily concerned with the potential for illicit connections or improper dumping to floor drains that discharge to a storm sewer system. Another potential source of contamination is the practice of washing down tipping floor areas and allowing the washwater to drain to the storm sewer system. EPA believes that these issues can be readily addressed by disconnecting floor drains to the storm sewer, good housekeeping practices and providing routine employee training. The practice of allowing tipping floor washwaters to discharge to a storm sewer system is prohibited under this permit.

The last area of concern is vehicle maintenance. Onsite vehicle maintenance was infrequently reported in group permit applications. Although vehicle maintenance frequently occurs indoors, the following specific activities could contribute pollutants to storm water: washdown of vehicle maintenance areas, leaks or spills of fuel, hydraulic fluids, lubricants, and other fluids, and exposed oils and oily rags. Fueling areas may lack roof cover, consequently, topping off fuel tanks or overfilling storage tanks (without high-level alarms) could contribute to contamination of surface runoff. Vehicle washing can result in accumulated residue material being discharged to a storm sewer system. The following tables identify significant materials that are exposed to precipitation or runoff based on information from two group applications (274 and 647).

TABLE N–11.—SIGNIFICANT MATERIALS REPORTED IN GROUP APPLICATION NO. 274

Significant materials	Percent of facilities[i]	Pollutant-causing activities
Paper Stock	43	Outdoor exposure could result in deterioration of paper.
Wood Pallets	83	Residual materials on pallets.
Recyclable Waste Paper in Bales	83	Outdoor exposure could result in deterioration of paper.
Recyclables Plastic, Glass, and Aluminum	30	Residual fluids from containers.
Gasoline/Diesel Fuel (outside pumps)	28	Leaks or spills. Overtopping during fueling.

[i] Column totals greater than 100% because many facilities have one or more of these significant materials exposed.

TABLE N–12.—Significant Materials Reported in Group Application No. 826

Significant materials	Percent of facilities[i]	Pollutant-causing activity
Wood Pallets	64	Residual materials on pallets.
Waste Paper	27	Outdoor exposure could result in deterioration of paper.
Recyclable Waste Paper in Bales	41	Outdoor exposure could result in deterioration of paper.
Gasoline/Diesel Fuel (outside pumps)	55	Leaks or spills. Overtopping during fueling.
Lubricating Fluids	14	Leaks or spills.

[i] Column totals greater than 100% because many facilities have one or more of these significant materials exposed.

EPA has established special pollution prevention plan requirements for recycling facilities that receive only source-separated recyclable materials. Specific requirements are discussed in Part XI.N.3.a.(3)(c) of the permit.

(2) Pollutants Found in Storm Water Discharges.

Based on data provided in group applications 274, 647, 826, and 1145, pollutants that were most frequently reported included TSS, BOD, COD, nitrite plus nitrate, TKN, total phosphorus, oil and grease, and total aluminum (group 1145 only). The table N–13 provides a statistical summary of data.

TABLE N–13.—SUMMARY STATISTICS FOR SELECTED RECYCLING FACILITIES[i] (SIC 5093) (GROUP APPLICATIONS 247, 647, 826, AND 1145) ALL UNITS IN mg/L UNLESS OTHERWISE NOTED

Pollutant, Sample type	# of Samples	Comp[ii]	Mean		Minimum		Maximum		Median		95th percentile	
	Grab		Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5			31	22	0	0	460	220	31	22	70	75
COD			179	118	0	0	1200	940	73	43	1005	441
TSS			495	383	0	0	7440	4860	73	40	1731	2754
Nitrate + Nitrite N			0.60	0.76	0	0	13	69	0.41	0.37	1.61	1.33
TKN			1.48	1.78	0	0	6.90	16.85	1.01	0.79	6.12	7.30
Oil and Grease			9.4	0.7	0	0	59.0	13.0	3.0	0.0	32.4	4.9
Total P			0.22	0.19	0	0	7.60	2.20	0.22	0.19	2.17	1.14
Total Al[iii]			5.51	1.55	0	0	44.0	5.40	1.20	0.90	26.00	4.80

[i] Applicants that did not report the units of measurement for the reported values were not included in these statistics.
[ii] Composite samples.
[iii] Values reported for Group Application No. 1145.

3. Options for Controlling Pollutants

a. Scrap and Waste Recycling Facilities (SIC 5093) (Nonliquid recyclable waste materials). This section addresses source control measures; BMPs and structural controls that are specifically applicable to the scrap recycling facilities (SIC 5093) and waste recycling facilities (SIC 5093) and which are engaged in the reclaiming and recycling of solid materials such as ferrous and nonferrous metals, plastics, paper, glass and cardboard and automotive parts.

The BMPs described in this subsection are specifically applicable to scrap recycling and waste recycling facilities. Scrap recycling and waste recycling facilities applying for coverage under Part XI.N. of today's permit shall employ a broad and comprehensive range of BMPs and source control measures to minimize and/or eliminate the diversity of pollutants associated with scrap processing operations. In instances where facilities conduct certain operations indoors or under cover, a determination will be made by the owner/operator of the facility as to the applicability of these BMPs and source control measures to these particular activities.

The following table summarizes alternative source control measures, nonstructural BMPs (BMPs), and structural controls that are associated with and applicable to scrap and waste processing facilities (SIC 5093) (nonliquid recyclable materials).

TABLE N–14.— SUMMARY OF ALTERNATIVE BMP OPTIONS FOR SCRAP AND WASTE RECYCLING PROCESSING FACILITIES

Activity	BMP alternatives
Inbound Recyclable and Waste Material Control.	Establish program to encourage suppliers of scrap, waste and other salvageable materials to drain residual fluids prior to arrival at the facility.
	Establish acceptance program for handling, storage and disposal of lead-acid batteries.
	Establish procedures for rejecting or handling, storing and disposal of hazardous wastes and other nonhazardous residual fluids.
	Establish procedures to properly handle industrial turnings and cuttings and prohibiting cutting oils and metallic fines from coming in contact with runoff.
	Identify inspector training requirements.
Outside Scrap Material Storage: (liquids)	Conduct inspections for fluids, e.g., oils, transmission fluids, antifreeze, brake fluid, and fuels. Establish handling/ storage/disposal procedures for these materials.

TABLE N–14.— SUMMARY OF ALTERNATIVE BMP OPTIONS FOR SCRAP AND WASTE RECYCLING PROCESSING FACILITIES—Continued

Activity	BMP alternatives
	Drain and collect liquids in a designated area. Provide covered storage or impervious areas with curbing/berms or other appropriate containment. Stored liquid materials in covered areas or impervious areas with curbing/berms or other appropriate measure.
	Establish spill prevention procedures.
	Provide adequate supply of materials for dry clean up of spills or leaks.
	Prevent runoff into liquid storage areas. Store liquid wastes in materially compatible containers. Minimize/eliminate the accumulation of liquid wastes.
	Establish procedures if hazardous wastes are discovered after material accepted.
	Conduct periodic inspections of storage areas.
	Conduct preventative maintenance of BMPs as necessary.
Outside Scrap Material Storage: (bulk solid materials).	Minimize runoff from coming into areas where significant materials are stored, e.g., diversion structures such as curbing, berms, containment trenches, surface grading, and elevated concrete pads or other equivalent measure.
	Use adsorbents to collect leaking or spills of oil, fuel, transmission and brake fluids, e.g., dry absorbent, drip pans.
	Install media filters such as catch basin filters and sand filters.
	Install oil/water separator in storage areas with vehicle transmissions and engines. Locate spill plans under stored vehicles.
	Provide nonrecyclable waste storage bins and containers.
	Conduct periodic inspections.
	Conduct preventative maintenance as necessary.
	Provide equipment operator training to minimize damage to controls, e.g., curbing and berms.
Storage Other: (lightweight materials)	Identify/provide supplier training or information bulletins on requirements for acceptance of lightweight materials.
	Encourage supplier participation in program to minimize/eliminate, as practicable, volume of semi-solid and liquid residues in recyclable materials, e.g., residual fluids in aluminum and plastic containers.
	Provide covered storage, container bins or equivalent for lighter-weight materials such as glass, plastics, aluminum cans, paper, cardboard.
	Minimize/eliminate residue from bottles, containers, etc. from coming in contact with runoff. Establish dry clean up methods.
	Establish procedures and employee training for the handling, storage and disposal of residual fluids from small containers.
	Prohibit washdown of tipping floor areas.
	Provide good housekeeping to eliminate particulate and residual materials buildup. Establish cleaning schedule for high traffic areas.
	Provide covered disposal containers or equivalent for residual waste materials.
	Eliminate floor drains discharging to storm sewer.
Scrap Processing Operations:	Provide training to equipment operators on how to minimize exposure of runoff to scrap processing areas.
	Schedule frequent cleaning of accumulated fluids and particulate residue around all scrap processing equipment.
	Schedule frequent inspections of equipment for spills or leakage of fluids, oil, fuel, hydraulic fluids.
	Conduct routine preventive maintenance of equipment per original manufacturer's equipment (OME) recommendations. Replace worn or malfunctioning parts.
	Site process equipment on elevated concrete pads or provide runoff diversion structures around process equipment, berms, containment trenches or surface grading or other equivalent measure. Discharge runoff from within bermed areas to a sump, oil/water separator, media filter or discharge to sanitary sewer.
	Conduct periodic maintenance and clean out of all sumps, oil/water separators, media filters. Dispose of residual waste materials properly, e.g., according to RCRA.
	Provide curbing, dikes, and berms around scrap processing equipment to prevent contact with runoff.
	Where practicable, locate process equipment e.g., balers, briquetters, small compactors, under an appropriate cover.
	Provide cover over hydraulic equipment and combustion engines. Provide dry-clean up materials, e.g., dry-adsorbents, drip pans, absorbent booms, etc. to prevent contact of hydraulic fluids, oils, fuels, etc., with storm water runoff.
	Provide alarm, pump shutoff, or sufficient containment for hydraulic reservoirs in the event of a line break.
	Stabilize high traffic areas, e.g., concrete pads, gravel, pavement, around processing equipment, where practicable.
	Provide site gages or overfill protection devices for all liquid and fuel storage reservoirs and tanks.
	Establish spill prevention and response procedures, including employee training.
	Provide containment bins or equivalent for shredded material, especially lightweight materials such as fluff (preferably at the discharge of these materials from the air classification system).
Supplies for Process Equipment	Locate storage drums containing liquids, including oils and lubricants indoors. Alternatively, site palletized drums and containers on an impervious surface and provide sufficient containment around the materials. Provide sumps, oil/water separators, if necessary.

TABLE N–14.— SUMMARY OF ALTERNATIVE BMP OPTIONS FOR SCRAP AND WASTE RECYCLING PROCESSING FACILITIES—Continued

Activity	BMP alternatives
Scrap lead acid battery Program	Conduct periodic inspections of containment areas and containers/drums for corrosion. Perform preventive maintenance of BMPs, as necessary. Instruct employees on proper material handling and storage procedures. Establish inspection and acceptance procedures for scrap lead-acid batteries. Provide supplier training on acceptance practices for scrap batteries. Provide employee training on the safe handling, storage and disposition of scrap batteries. Separate all scrap batteries from other scrap materials. Store scrap batteries under cover or equivalent. Establish procedures for the storage, handling, disposition of cracked or broken batteries in accordance with applicable Federal regulations, e.g., RCRA. Establish procedures to collect and dispose of leaking battery acid according to Federal regulations, e.g., RCRA.
Vehicle and Equipment Maintenance	Provide covered storage or equivalent to prevent exposure to either precipitation or runoff. Establish an inventory of materials used in the maintenance shop that could become a potential pollutant source with storm water runoff, e.g., fuels, solvents, oils, lubricants. Store and dispose of oily rags, filters (oil and air), batteries, engine coolant, transmission fluid, use oil, brake fluid, and solvents in a manner that minimizes potential contact with runoff and in compliance with State and Federal regulations. Label and track recycling of waste materials, e.g., batteries, solvent, used oil. Drain oil filters before disposal or recycling. Drain all fluids from all parts or components that will become scrap material or secondhand parts. Store liquid waste materials in compatible containers. Store and dispose used batteries in accordance with scrap lead acid battery program. Disconnect all floor drains connected to storm sewer system. Prohibit non-storm water discharges, e.g., dumping of used liquids down floor drains and washdown of maintenance areas. Provide employee training on appropriate storage and disposal of waste materials. Provide good housekeeping measures. Conduct inspections of work areas for compliance with BMPs.
Fueling	Use spill and overflow protection devices. Provide high level alarm on fuel storage tanks. Minimize/eliminate runoff onto fueling areas. Reduce exposure of fueling areas to precipitation by covering the fueling area. Provide dry adsorbents to clean up fuel spills. Conduct periodic inspections of fueling areas. Instruct personnel on proper fueling procedures. Provide curbing or posts around fuel pumps to prevent collisions during vehicle ingress and egress.
Vehicle and Equipment Washing	Avoid washing vehicles and equipment outdoors. Use biodegradable, phosphate free detergents. Recycle wash water. Provide vehicle wash rack with dedicated sediment trap. Use autoshut-off valves on washing equipment.
Outdoor vehicle parking and storage	Use drip pans under all equipment and vehicles waiting maintenance. Cover vehicle and equipment storage areas. Conduct inspections of storage and parking areas for leaks and filled drip pans. Provide employee training.
Vehicle and Equipment Painting (where applicable).	Keep paint and solvents away from traffic areas. Conduct sanding and painting in nonexposed areas, e.g., under cover, in accordance with OSHA standards. Cleanup accumulated particulate matter. Minimize overspraying parts. Dispose or recycle paint, solvents and thinner properly. Provide training to employees. Conduct periodic inspections of paint spraying areas.
Erosion and Sediment Control	Minimize runon from adjacent properties, e.g., diversion dikes, berms, or equivalent. Trap sediment at downgradient locations and outlets serving unstabilized areas. This may include filter fabric fences, gravel outlet protection, sediment traps, vegetated or riprap swales, vegetated strips, diversion structures, catch-basin filters, retention/detention basins or equivalent. Runoff containing oil and grease may include the use of absorbent booms or sand filters in front of outlet structures or other equivalent measures. Stabilize all high traffic areas, including all vehicle entrances and exit points. Conduct periodic sweeping of all traffic areas. Conduct inspections of BMPs. Perform preventative maintenance as needed on BMPs. Provide employee training on the proper installation and maintenance of erosion and sediment controls.

b. Waste Recycling Facilities (SIC 5093)—(recyclable liquid wastes). This section addresses source control measures, BMPs, and structural controls that are specifically applicable to waste recycling facilities (SIC 5093) which are engaged in such activities as reclaiming and recycling of liquid wastes such as spent solvents, used oil, and used antifreeze (ethylene glycol). Waste recycling facilities applying for coverage under Part XI.N. of today's proposed permit will be required to employ a comprehensive range of BMPs and source control measures to minimize contact of pollutants with storm water runoff and precipitation. In instances where facilities conduct certain operations indoors or under cover, a determination will be made by the owner/operator of the facility as to the applicability of these BMPs and source control measures to their particular facility. The following table summarizes the percent breakdown of BMPs that were reported by applicants participating in group application number 195.

TABLE N–15.—TYPES OF BMPS REPORTED IN EPA GROUP APPLICATION NUMBER 195

BMP	Percent of facilities
Secondary Containment (includes tanks, piping, and return/fill stations)	70
Containment Trench (includes closed loop containment trenches with sumps, sloped floors, and/or berms)	91
Roof (includes canvass tent roofs and enclosed structures)	7
Contingency Plan (serves as Spill Prevention and Countermeasures Control Plan)	100
Prevention and Preparedness Plan (includes inspection information and general housekeeping procedures)	100

The following table summarizes types of BMPs, and structural control options that are applicable to liquid waste recycling facilities.

TABLE N–16.—TYPES OF BMP OPTIONS APPLICABLE TO LIQUID WASTE RECYCLING FACILITIES

Activity	BMP alternatives
Individual Drum/Container Storage	Ensure container/drums are in good condition. Store waste materials in materially compatible drums. Use containers that meet National Fire Protection Association (NFPA) guidelines.
	Put individual containers on pallets. Limit stack height of individual containers/drums. Provide straps, plastic wrap, or equivalent around stacked containers to provided stability.
	Label/mark drums. Segregate hazardous and flammable wastes. Comply with NFPA guidelines for segregation of flammable wastes.
	Provide adequate clearance to allow material movement and access by material handling equipment.
	Provide semipermanent or permanent cover over wastes.
	Provide adequate clearance between stored materials to allow movement and handling.
	Establish clean up procedures, including the use of dry adsorbents, in the event of spills or leaks.
	Prohibit washing down of material storage areas. Disconnect or seal all floor drains from storm sewer system.
	Develop spill prevention, countermeasures and control (SPCC) procedures for all liquid container storage areas. Ensure employees are familiar with SPCC procedures. Schedule/conduct periodic employee training.
	Provide secondary containment, dikes, berms, containment trench, sumps, or other equivalent measure, in all storage areas.
Bulk Liquid Storage	Use welded pipe connections versus flange connections. Inspect all flange gaskets for deterioration.
	Apply corrosion inhibitors to exposed metal surfaces.
	Provide high level alarms for storage tanks.
	Provide redundant piping, valves, pumps, motors, as necessary, at all pumping stations. Provide manually activated shutoff valves in the event of spill. Install visible and/or audible alarms in the event of a spill.
	Install manually activated drainage values, or equivalent, versus flapper-type drain values. Provide adequate security against vandalism and tampering.
	Provide secondary containment around all bulk storage tanks, including berms, dikes, surface impoundments or equivalent. Ensure surfaces of secondary containment areas are adequately sealed to prevent leaks.
	Provide stationary boxes around all return and fill stations to eliminate/minimize hose drainage and minor waste transfer spills.
Waste Transfer Areas	Provide secondary containment or equivalent measures around all liquid waste transfer facilities.
	Provide cover over liquid waste transfer areas.
	Establish clean up procedures for minor spills including the use of dry adsorbents.
Inspections	Conduct inspections of all material storage, handling and transfer areas.
	Document signs of corrosion, worn parts or components on pumps and motors, leaking seals and gaskets.
	Conduct periodic nondestructive testing (NDT) of all bulk storage tanks for signs of deteriorating structural integrity.
Preventive Maintenance	Conduct periodic preventive maintenance of all structural controls, replace worn parts on components on valves, pumps, motors per manufacturer's recommendations.
Vehicle Maintenance (if applicable)	Establish an inventory of materials used in the maintenance shop that could become a potential pollutant source with storm water runoff, e.g., fuels, solvents, oils, lubricants.

TABLE N–16.—TYPES OF BMP OPTIONS APPLICABLE TO LIQUID WASTE RECYCLING FACILITIES—Continued

Activity	BMP alternatives
	Store and dispose of oily rags, filters (oil and air), batteries, engine coolant, transmission fluid, use oil, brake fluid, and solvents in a manner that minimizes potential contact with runoff and in compliance with State and Federal regulations.
	Label and track recycling of waste materials, e.g., batteries, solvent, used oil.
	Drain oil filters before disposal or recycling.
	Drain all fluids from all parts or components that will become scrap material or secondhand parts.
	Store liquid waste materials in compatible containers.
	Store and dispose used batteries in accordance with scrap lead acid battery program.
	Disconnect all floor drains connected to storm sewer system.
	Prohibit non-storm water discharges, e.g., dumping of used liquids down floor drains and washdown of maintenance areas.
	Provide employee training on appropriate storage and disposal of waste materials.
	Provide good housekeeping measures.
	Conduct inspections of work areas for compliance with BMPs.
Vehicle Cleaning (if applicable)	Avoid washing vehicles and equipment outdoors.
	Use biodegradable, phosphate free detergents.
	Recycle wash water.
	Provide vehicle wash rack with dedicated sediment trap.
	Use autoshut-off valves on washing equipment.
Training	Provide employee training on proper material handling and storage procedures. Require familiarization with applicable SPCC measures.

c. Recycling Facilities (SIC 5093). This section addresses best management practices that have been employed by one or more facilities within group applications 274, 647, 826, and 1145. The following table provides examples of BMPs used by the recycling facilities within this sub-section:

TABLE N–17.—Types of BMP Options Applicable to Recycling Facilities

Activity	BMP options and alternatives
Inbound Recyclable Materials Control	Provide public education brochures on acceptable recyclable materials.
	Educate curbside pick-up drivers on acceptable materials. Reject unacceptable materials at the source.
	Employee training.
	Provide totally-enclosed drop-off containers for public.
Indoor Storage	Store equivalent of the average daily volume of recyclable materials indoors.
	Provide good housekeeping.
	Disconnect all floor drains from storm sewer system.
	Prohibit illicit discharges and illegal dumping to floor drains that are connected to the storm sewer.
	Direct tipping floor washwaters to sanitary sewer system if permitted by local sanitary authority.
Recyclable Material Processing	Conduct processing operations indoors. Clean up residual fluids.
	Conduct routine preventive maintenance on all processing equipment.
	Schedule frequent good housekeeping to minimize particulate and residual materials buildup.
Outdoor Storage	Store only processed materials, i.e., baled plastic and aluminum and glass cullet.
	Provide containment pits with sumps pumps that discharge to sanitary sewer system. Prevent discharge of residual fluids to storm sewer.
	Provide dikes and curbs around bales of waste paper.
	Use tarpaulins or covers over bales of wastepaper.
	Conduct regularly scheduled sweeping of storage areas to minimize particulate buildup.
Residual Non-recyclable Materials	Store residual non-recyclable materials in covered containers for transport to a proper disposal facility.
	Bale residual non-recyclable materials and cover with tarpaulin or equivalent.
Vehicle Maintenance	Avoid washing equipment and vehicles outdoors.
	Eliminate outdoor maintenance areas.
Fueling	Establish spill prevention and clean-up procedures.
	Provide dry-absorbent materials or equivalent.
	Provide employee training, i.e., avoid topping off fuel tanks.
	Divert runoff from fueling areas.
Lubricant Storage	Eliminate or minimize outside storage.
	Provide employee training on proper, handling, storage.
	Divert runoff from storage areas.

4. Discharges Covered under this Section

The requirements listed under this section are applicable to storm water discharges from facilities typically identified in SIC 5093 (except for battery reclaimers and auto salvage yards). This includes facilities that are engaged in the processing, reclaiming and wholesale distribution of scrap and waste materials such as ferrous and nonferrous metals, paper, plastic,

cardboard, glass. For purposes of this permit, the term waste recycling facility applies to those facilities within SIC 5093 that receive a mixed wastestream of recyclable and non-recyclable wastes. Facilities that are engaged in reclaiming and recycling liquid wastes such as used oil, antifreeze, mineral spirits and industrial solvents and which are classified SIC 5093 are also covered under this section. The term recycling facility is used in this permit to those facilities that only receive source-separated recyclable materials primarily from non-industrial and residential sources, e.g., common consumer products including paper, newspaper, glass, cardboard, plastic containers, aluminum and tin cans.

5. Special Conditions

The following section identifies special conditions that are applicable to permittees applying for coverage under Part XI.N. of today's permit.

a. Prohibition of Non-storm Water Discharges. This section requires scrap and waste recycling facilities that are typically classified in SIC 5093 to certify that certain non-storm water discharges are not occurring at their facilities. A list of non-storm water discharges that are not authorized by this section has been identified. These discharges are prohibited due to the likelihood these discharges will contain substantial pollutant concentrations. The following non-storm water discharges are not authorized by this section: waste discharges to floor drains or sinks connected to the facilities storm sewer or storm drainage system; water originating from vehicle and equipment washing; steam cleaning wastewater; process wastewaters; washwater originating from cleaning tipping floor areas or material receiving areas that discharge to any portion of a storm sewer system; wastewater from wet scrubbers; boiler blowdown; noncontact and contact cooling water; discharges originating from dust control spray water; discharges from oil/water separators and sumps in the absence of a storm event; discharges originating from the cleaning out of oil/water separators or sumps; and non-storm water discharges from turnings containment areas.

The operators of non-storm water discharges must seek coverage for these discharges under a separate National Pollutant Discharge Elimination System (NPDES) permit if discharging to either a municipal separate storm sewer system or to waters of the United States. If such a permit has been issued, the plan shall identify the NPDES permit number and a copy of the NPDES permit shall be located at the facility and shall be readily accessible. If a permit application has been submitted for a non-storm water discharge, the plan shall be annotated accordingly and a copy of the application shall be located at the facility and shall be readily accessible.

For facilities that have prohibited discharges identified under this section and which discharge to a sanitary sewer system, the facility operator is required to take the appropriate notification actions as may be required by the operator of the sanitary sewer system. Any relevant documentation, i.e., notification letters and approvals, shall be kept with the plan. For facilities that have been issued an industrial user permit under the pretreatment program for discharges prohibited under this section, the plan shall identify the appropriate NPDES permit number and a copy of the permit shall be kept at the facility and shall be readily accessible. EPA strongly recommends that operators keep copies of relevant documentation concerning non-storm water discharges and NPDES permits with the plan.

6. Storm Water Pollution Prevention Plan Requirements

a. Contents of the Plan. In addition to the supplemental information requirements identified in Part VI.C., scrap and waste recycling facilities in SIC 5093 are required to provide the additional information applicable to their industrial sector. The storm water pollution prevention plan is broken out into three subcategories; scrap recycling and waste recycling facilities (nonliquid materials); waste recycling facilities (liquid materials); and recycling facilities.

(1) Description of Potential Pollutant Sources

(a) Scrap Recycling and Waste Recycling Facilities (nonliquid recyclable wastes)—This section establishes that scrap recycling and waste recycling facilities shall provide the following information in their pollution prevention plan.

(i) Inbound Recyclable and Waste Material Control Program—The plan shall include a recyclable and waste material inspection program to minimize the likelihood of receiving non-recyclable materials (e.g., hazardous materials) that may be significant pollutant sources to storm water discharges. At a minimum, the plan shall address the following:

Information/education measures to encourage major suppliers of scrap and recyclable waste materials to drain residual fluids, whenever applicable, prior to its arrival at the facility. This includes vehicles and equipment engines, radiators, and transmissions, oil-filled transformers, white goods (appliances) and individual containers or drums;

Activities which accept scrap and materials that may contain residual fluids, e.g., automotive engines containing used oil, transmission fluids, etc., shall describe procedures to minimize the potential for these fluids from coming in contact with either precipitation or runoff. The description shall also identify measures or procedures to properly store, handle, dispose and/or recycle these residual fluids;

Procedures pertaining to the acceptance of scrap lead-acid batteries. Additional requirements for the handling, storage and disposal or recycling of batteries shall be in conformance with conditions for a scrap lead-acid battery program, see below;

A description of training requirements for those personnel engaged in the inspection and acceptance of inbound recyclable materials; and

Liquid wastes, including used oil, shall be stored in materially compatible and nonleaking containers and disposed or recycled in accordance with all requirements under the Resource Recovery and Conservation Act (RCRA), and other State or local requirements.

(ii) Scrap and Waste Material Stockpiles (outdoors)—The plan shall address areas where significant materials are exposed to either storm water runoff or precipitation. The plan must describe those measures and controls used to minimize contact of storm water runoff with stockpiled materials. The plan should include measures to minimize the extent of storm water contamination from these areas. The operator shall consider (within the plan) the use of the following BMPs (either individually or in combination) or their equivalent to minimize contact with storm water runoff:

Diversion devices or structures such as dikes, berms, containment trenches, culverts and/or surface grading;

Media filtration such as catch basin filters and sand filters;

Silt fencing; and,

Oil/water separators, sumps and dry adsorbents in stockpile areas that are potential sources of residual fluids, e.g., automotive engine storage areas.

The operator may consider the use of permanent or semipermanent covers, or other similar forms of protection over stockpiled materials where the operator determines that such measures are reasonable and appropriate.

The operator may consider the use of sediment traps, vegetated swales and/or vegetated strips to facilitate settling or filtering out of pollutants and sediment.

(iii) Stockpiling of Turnings Previously Exposed to Cutting Fluids (outdoors)—The plan shall address all areas where stockpiling of industrial turnings (previously exposed to cutting fluids) occurs. The plan shall implement those measures necessary to minimize contact of surface runoff with residual cutting fluids. The operator shall consider implementation of either of the following two alternatives or a combination of both or equivalent measures:

Alternative 1: Storage of all turnings previously exposed to cutting fluids under some form of permanent or semi-permanent cover. Discharges of residual fluids from these areas to the storm sewer system in the absence of a storm event is prohibited. Discharges to the storm sewer system as a consequence of a storm event is permitted provided the discharge is first directed through an oil/water separator or its equivalent. Procedures to collect, handle, and dispose or recycle residual fluids that may be present shall be identified in the plan.

Alternative 2: Establish dedicated containment areas for all turnings that have been exposed to cutting fluids where runoff from these areas is directed to a storm sewer system, providing the following:

Containment areas constructed of either concrete, asphalt or other equivalent type of impermeable material;

A perimeter around containment areas to prevent runoff from moving across these areas. This would include the use of shallow berms, curbing, or constructing an elevated pad or other equivalent measure;

A suitable drainage collection system to collect all runoff generated from within containment areas. At a minimum, the drainage system shall include a plate-type oil/water separator or its equivalent. The oil/water separator or its equivalent shall be installed according to the manufacturer's recommended specifications, whenever available, specifications will be kept with the plan;

A schedule to maintain the oil/water separator (or its equivalent) to prevent the accumulation of appreciable amounts of fluids. In the absence of a storm event, no discharge from containment areas to the storm sewer system are permitted unless the discharge is covered by a separate NPDES permit; and

Identify procedures for the proper disposal or recycling of collected residual fluids.

(iv) Scrap and Waste Material Stockpiles (covered or indoors)—The plan shall address, at a minimum, measures and controls to minimize and, whenever feasible, eliminate residual liquids and particulate matter from materials stored indoors from coming in contact with surface runoff. The operator shall consider including in their plan: good housekeeping measures to collect residual liquids from aluminum, glass and plastic containers and prohibiting the practice of allowing washwater from tipping floors or other indoor processing areas from discharging to a storm sewer system, inspections to ensure that material stockpile areas with existing floor drains are not connected to the storm sewer system or any portion of the storm sewer system, and the disconnection of any floor drains to the storm drainage system.

(v) Scrap and Recyclable Waste Processing Areas—The plan shall address areas where scrap and recyclable waste processing equipment are sited. This includes measures and controls to minimize surface runoff from coming in contact with scrap processing equipment. In the case of processing equipment that generate visible amounts of particulate residue, e.g., shredding facilities, the plan shall describe good housekeeping and preventive maintenance measures to minimize contact of runoff with residual fluids and accumulated particulate matter. At a minimum, the operator shall consider including the following:

A schedule of periodic inspections of equipment for leaks, spills, malfunctioning, worn or corroded parts or equipment; preventive maintenance program to repair and/or maintain processing equipment; measures to minimize shredder fluff from coming in contact with surface runoff; use of dry-absorbents or other cleanup practices to collect and to dispose or recycle spilled or leaking fluids; and installation of low-level alarms or other equivalent protection devices on unattended hydraulic reservoirs over 150 gallons in capacity. Alternatively, provide secondary containment with sufficient volume to contain the entire volume of the reservoir.

The operator shall consider using the following types of BMPs:

(a) Diversion structures such as dikes, berms, culverts, containment trenches, elevated concrete pads, grading to minimize contact of storm water runoff with outdoor processing equipment;

(b) Oil/water separators or sumps in processing areas that are potential sources of residual fluids and grease;

(c) Permanent or semipermanent covers, or other similar measures;

(d) Retention and detention basins or ponds, sediment traps or vegetated swales and strips, to facilitate settling or filtering out of pollutants in runoff from processing areas; or

(e) Media filtration such as catch basin filters and sand filters.

(vi) Scrap Lead-acid Battery Program—The plan shall address measures and controls for the proper receipt, handling, storage and disposition of scrap lead-acid batteries (battery reclaiming is not eligible for coverage under this permit). The operator shall consider including: procedures for accepting scrap batteries and describing how they will be segregated from other scrap materials; procedures for managing battery casings that may be cracked or leaking, including the proper handling and disposal of residual fluids; measures to minimize and, whenever possible, eliminate exposure of scrap batteries to either runoff or precipitation; the schedule for conducting periodic inspections of scrap battery storage areas and applicable source control measures; and measures to provide employee training on the management of scrap batteries.

(vii) Erosion and Sediment Control—The plan shall identify all areas associated with industrial activity that have a high potential for soil erosion and suspended solids loadings, i.e., areas that tend to accumulate significant particulate matter. Appropriate source control, stabilization measures, nonstructural, structural controls, or an equivalent shall be provided in these areas. The plan shall also contain a narrative discussion of the reason(s) for selected erosion and sediment controls. At a minimum, the operator shall consider in the plan, either individually or in combination, the following erosion and sediment control measures:

Filtering or diversion practices, such as filter fabric, sediment filter boom, earthen or gravel berms, curbing or other equivalent measure;

Catch basin filters, filter fabric, or equivalent measure, placed in or around inlets or catch basins that receive runoff from scrap and waste storage areas, and processing equipment; and

Sediment traps, vegetative buffer strips, or equivalent, that effectively trap or remove sediment prior to discharge through an inlet or catch basin.

In instances where significant erosion and suspended solids loadings continue after implementation of source control

measures and nonstructural controls, the operator shall consider providing in the plan for a detention or retention basin or other equivalent structural control. All structural controls shall be designed using good engineering practice. All structural controls and outlets that are likely to receive discharges containing oil and grease must include appropriate measures to minimize the discharge of oil and grease through the outlet. This may include the use of an absorbent boom or other equivalent measure.

Where space limitations (e.g., obstructions caused by permanent structures such as buildings and permanently-sited processing equipment and limitations caused by a restrictive property boundary) prevent the siting of a structural control, i.e., retention basin, such a determination will be noted in the plan. The operator will identify in the plan what existing practices shall be modified or additional measures shall be undertaken to minimize erosion and suspended sediment loadings in lieu of a structural BMP.

(*viii*) *Spill Prevention and Response Procedures*—To prevent or minimize storm water contamination at loading and unloading areas, and from equipment or container failures, the operator shall consider including in the plan the following practices:

Description of spill prevention and response measures to address areas that are potential sources of leaks or spills of fluids;

All significant leaks and spills should be contained and cleaned up as soon as possible. If malfunctioning equipment is responsible for the spill or leak, repairs should also be conducted as soon as possible;

Cleanup procedures should be identified in the plan, including the use of dry absorbent materials or other cleanup methods. Where dry absorbent cleanup methods are used, an adequate supply of dry absorbent material should be maintained onsite. Used absorbent material should be disposed of properly;

Drums containing liquids, including oil and lubricants, should be stored indoors; or in a bermed area; or in overpack containers or spill pallets; or in similar containment devices;

Overfill prevention devices should be installed on all fuel pumps or tanks;

Drip pans or equivalent measures should be placed under any leaking piece of stationary equipment until the leak is repaired. The drip pans should be inspected for leaks and checked for potential overflow, and be emptied regularly to prevent overflow and all liquids will be disposed of in accordance with all requirements under RCRA; and

An alarm and/or pump shut off system should be installed and maintained on all outside equipment with hydraulic reservoirs exceeding 150 gallons (only those reservoirs not directly visible by the operator of the equipment) in order to prevent draining the tank contents in the event of a line break. Alternatively, the equipment may have a secondary containment system capable of containing the contents of the hydraulic reservoir plus adequate freeboard for precipitation. Leaking hydraulic fluids should be disposed of in accordance with all requirements under RCRA.

(ix) Quarterly Inspections—A quarterly inspection shall include all designated areas of the facility and equipment identified in the plan. The inspection shall include a means of tracking and conducting follow up actions based on the results of the inspection. The inspections shall be conducted by members of the Storm Water Pollution Prevention team. At a minimum, quarterly inspections shall include the following areas:

All outdoor scrap processing areas;

All material unloading and loading areas (including rail sidings) that are exposed to either precipitation or storm water runoff;

Areas where structural BMPs have been installed;

All erosion and sediment BMPs;

Outdoor vehicle and equipment maintenance areas;

Vehicle and equipment fueling areas; and

All areas where waste is generated, received, stored, treated, or disposed and which are exposed to either precipitation or storm water runoff.

If exposed to precipitation or storm water runoff, the inspection shall attempt to identify any corroded or leaking containers, corroded or leaking pipes, leaking or improperly closed valves and valve fittings, leaking pumps and/or hose connections, and deterioration in diversionary or containment structures. Spills or leaks shall be immediately addressed according to the facilities. A record of inspections shall be maintained with the plan.

The BMPs identified above have been employed by scrap recycling and waste recycling facilities are believed to be appropriate given the types of pollutants found in storm water discharges from these facilities. In addition, the diversity of options allows permittees to select those BMPs that are most applicable to the extent of the risk that exists at a particular facility. In instances where nonstructural measures are not sufficient, the conditions direct the permittee to more stringent requirements such as structural controls.

(b) Waste Recycling Facilities (Recyclable liquid wastes)—This section establishes that waste recycling facilities (recyclable liquid wastes) shall provide the following information.

(i) Waste Material Storage (indoors)—The operator shall consider including in the plan measures and controls to minimize residual liquids from waste materials stored indoors from coming in contact with surface runoff and provisions to maintain a sufficient supply of dry-absorbent materials or a wet vacuum system or other equivalent measure to promptly respond to minor leaks or spills. Measures for secondary containment or its equivalent and procedures for proper material handling (including labeling and marking) and storage of containerized materials should be considered. Drainage from bermed areas should be discharged to an appropriate treatment facility or sanitary sewer system. Discharges from bermed areas should be covered by a separate NPDES permit or industrial user permit under the pretreatment program. The drainage system, where applicable, should include appropriate appurtenances such as pumps or ejectors and manually-operated valves of the open-and-close design.

(ii) Waste Material Storage (outdoors)—The plan will address areas where waste materials are exposed to either storm water runoff or precipitation. The plan must include measures to provide appropriate containment, drainage control and/or other appropriate diversionary structures. The plan must describe those measures and controls used to minimize contact of storm water runoff with stored materials. The operator shall consider including in the plan the following preventative measures or an equivalent:

An appropriate containment structure such as dikes, berms, curbing or pits, or other equivalent measure. The containment should be sufficient to store the volume of the largest single tank and should include sufficient freeboard for precipitation;

A sufficient supply of dry-absorbent materials or a wet vacuum system to collect liquids from minor spills and leaks in contained areas; and

Discharges of precipitation from containment areas containing used oil shall be in accordance with applicable sections of 40 CFR Part 112.

(iii) Truck and Rail Car Waste Transfer Areas—The plan will describe

measures and controls for truck and rail car loading and unloading areas. This includes appropriate containment and diversionary structures to minimize contact with precipitation and/or storm water runoff. The plan will also address measures to clean up minor spills and/or leaks originating from the transfer of liquid wastes. This may include dry-clean up methods, roof coverings, and other runoff controls.

(iv) Erosion and Sediment Control—The plan shall identify all areas associated with industrial activity that have a high potential for soil erosion. Appropriate stabilization measures, nonstructural and structural controls shall be provided in these areas. The plan shall contain a narrative consideration of the appropriateness for selected erosion and sediment controls. Where applicable, the facility shall consider the use of the following types of preventive measures: sediment traps; vegetative buffer strips; filter fabric fence; sediment filtering boom; gravel outlet protection; or other equivalent measures that effectively trap or remove sediment prior to discharge through an inlet or catch basin.

(v) Spill Prevention and Response Procedures—The plan will address measures and procedures to address potential spill scenarios that could occur at the facility. This includes all applicable handling and storage procedures, containment, diversion controls and clean-up procedures. The plan will specifically address all outdoor and indoor storage areas, waste transfer areas, material receiving areas (loading and unloading), and waste disposal areas.

(vi) Quarterly Inspections—Quarterly visual inspections shall be conducted by a member, or members, of the storm water pollution prevention team. The quarterly inspection shall include all designated areas of the facility and equipment identified in the plan. The inspection shall include a means of tracking and conducting follow up actions based on the results of the inspection. At a minimum, the inspections shall include the following areas:

Material storage areas;

Material unloading and loading areas (including rail sidings) that are exposed to either precipitation or storm water runoff;

Areas where structural BMPs have been installed;

All erosion and sediment BMPs;

Outdoor vehicle and equipment maintenance areas (if applicable);

Vehicle and equipment fueling areas (if applicable); and

All areas where waste is generated, received, stored, treated, or disposed and which are exposed to either precipitation or storm water runoff.

If exposed to precipitation or storm water runoff, the inspection shall identify the presence of any corroded or leaking containers, corroded or leaking pipes, leaking or improperly closed valves and valve fittings, leaking pumps and/or hose connections, and deterioration in diversionary or containment structures. Spills or leaks shall be immediately addressed according to the facility's spill prevention and response procedures.

(c) Recycling Facilities.—This section establishes that recycling facilities (including MRFs) that receive only source-separated recyclable materials primarily from non-industrial and residential sources shall provide the following information in their pollution prevention plan.

(i) Inbound Recyclable Material Control Program. The plan shall include a recyclable material inspection program to minimize the likelihood of receiving non-recyclable materials (e.g., hazardous materials) that may be significant source of pollutants in surface runoff. At a minimum, the operator shall consider addressing in the plan the following:

A description of information and education measures to educate the appropriate suppliers of recyclable materials on the types of recyclable materials that are acceptable and those that are not acceptable, e.g., household hazardous wastes;

A description of training requirements for drivers responsible for pickup of recyclable materials;

Clearly mark public drop-off containers as to what materials can be accepted;

Rejecting non-recyclable wastes or household hazardous wastes at the source; and

A description of procedures for the handling and disposal of nonrecyclable materials.

(ii) Outdoor Storage. The plan shall include BMPs to minimize or reduce the exposure of recyclable materials to surface runoff and precipitation. The plan, at a minimum, shall include good housekeeping measures to prevent the accumulation of visible quantities of residual particulate matter and fluids, particularly in high traffic areas. The plan shall consider tarpaulins or their equivalent to be used to cover exposed bales of recyclable waste paper. The operator shall consider within the plan the use of the following types of BMPs (individually or in combination) or their equivalent:

Provide totally-enclosed drop-off containers for public.

Provide a sump and sump pump with each containment pit. Prevent the discharge of residual fluids to storm sewer system. Prevent discharging to the storm sewer system;

Provide dikes and curbs around bales of recyclable waste paper;

Divert surface runoff away from outside material storage areas;

Provide covers over containment bins, dumpsters, roll-off boxes; and,

Store the equivalent one day's volume of recyclable materials indoors.

(iii) Indoor Storage and Material Processing. The plan shall address BMPs to minimize the release of pollutants from indoor storage and processing areas to the storm sewer system. The plan shall establish specific measures to ensure that all floor drains do not discharge to the storm sewer system. The following BMPs shall be considered for inclusion in the plan:

Schedule routine good housekeeping measures for all storage and processing areas;

Prohibit the practice of allowing tipping floor washwaters from draining to any portion of a storm sewer system;

Provide employee training on pollution prevention practices;

(iv) Vehicle and Equipment Maintenance. The plan shall also provide for BMPs in those areas where vehicle and equipment maintenance is occurring outdoors. At a minimum, the following BMPs shall be considered for inclusion in the plan:

Prohibit vehicle and equipment washwater from discharging to the storm sewer system;

Minimize or eliminate outdoor maintenance areas, wherever possible;

Establish spill prevention and clean-up procedures in fueling areas;

Provide employee training on avoiding topping off fuel tanks;

Divert runoff from fueling areas;

Store lubricants and hydraulic fluids indoors;

Provide employee training on proper, handling, storage of hydraulic fluids and lubricants.

Monitoring and Reporting Requirements

Analytical Monitoring Requirements. EPA believes that scrap recycling and waste recycling facilities (nonsource-separated facilities only) may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention

plan and to characterize the discharge for potential environmental impacts, the permit requires scrap recycling and waste recycling facilities to collect and analyze samples of their storm water discharges for the pollutants listed in Table N–18. The pollutants listed in Table N–18 were found to be above benchmark levels for a significant portion of scrap and waste recycling facilities that submitted quantitative data in the group application process, or are believed to be present based upon the description of industrial activities and significant materials exposed. Because these pollutants have been reported above benchmark levels , EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

At a minimum, storm water discharges from scrap recycling and waste recycling facilities must be monitored quarterly during the second year of permit coverage. Samples must be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Table N–18. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE N–18.—INDUSTRY MONITORING REQUIREMENTS

Pollutants of concern [1]	Cut-off concentration
Chemical Oxygen Demand (COD).	120 mg/L
Total Suspended Solids (TSS).	100 mg/L
Total Recoverable Aluminum.	0.75 mg/L
Total Recoverable Copper.	0.0636 mg/L
Total Recoverable Iron ...	1.0 mg/L
Total Recoverable Lead .	0.0816 mg/L
Total Recoverable Zinc ...	0.065 mg/L

[1] Several congeners of PCBs (PCB–1016, –1221, –1242, –1248, –1260) were above established benchmarks, however, EPA believes that these constituents will readily bound up with sediment and particulate matter. Therefore, EPA feels that monitoring for TSS will serve as an adequate indicator for the control of PCBs.

If the average concentration for a parameter is less than or equal to the value listed in Table N–18, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Table N–18, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit.

TABLE N–19.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table N–18, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table N–18, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table N–18. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, EPA has proposed monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of monitoring reports required, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring

reports required under paragraph (c) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. For facilities conducting monitoring beyond the minimum quarterly requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

f. Quarterly Visual Examination of Storm Water Quality. Quarterly visual examinations of storm water discharges from each outfall are required. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples. The examination must be conducted at least once in each of the following periods: January through March; April through June; July through September; and October through December.

The examination must be made at least once in each quarter of the permit during daylight unless there is insufficient rainfall or snow-melt to generate runoff. Where practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 60 minutes) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and effects on the management practices that are included in the plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation on-site with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

g. Retention of Records

(1) The permittee shall retain records of all inspections and monitoring information, including certification reports, noncompliance reports, calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports, and supporting data, requested by the permitting authority for at least 3 years after the date of the sampling event or inspection.

O. Storm Water Discharges Associated With Industrial Activity From Steam Electric Power Generating Facilities, Including Coal Handling Areas

1. Industrial Profile

The conditions in this section apply to storm water discharges from steam electric power generating facilities. The steam electric power generating category

includes facilities which are coal, oil, gas, or nuclear fired. Heat captured co-generation facilities are not covered under the definition of storm water discharge associated with industrial activity, however, dual fuel co-generation facilities are included in the definition. When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

Storm water discharges from coal piles are eligible for coverage under this permit, where these discharges are not already subject to an existing NPDES permit.

The production of electrical energy always involves the conversion of some other form of energy. The two most important sources of energy which are converted to steam electric energy are the chemical energy of fossil fuels and the atomic energy of nuclear fuels. Current uses of fossil fuels are based on a combustion process, followed by steam generation to convert the heat first into mechanical energy and then to convert the mechanical energy into electrical energy. Nuclear power plants utilize a cycle similar to that used in fossil fueled power plants except that the source of heat is atomic interactions rather than the combustion of fossil fuel.

The steam electric power generating process for fossil fuel systems are typically enclosed and subject to effluent limitations guidelines [40 Code of Federal Regulations (CFR) Part 423], as is coal pile runoff. However, the unloading and transport of coal within the facility is subject to the conditions set forth in this section of today's permit. Likewise, the unloading and storage areas for liquid fuels and chemicals are subject to the conditions in this section of today's permit.

Industrial activities occurring at steam electric power generating facilities that pertain to the storm water rule include, "* * * but [are] not limited to, storm water discharges from industrial plant yards; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters (as defined at 40 CFR Part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials and intermediate and finished materials; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water" (40 CFR 122.26(b)(14)). Common industrial activities at steam electric power generating facilities include the unloading, transport, and storage of raw materials, and the disposal of waste materials.

Significant materials include, "* * * but [are] not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; * * * hazardous substances designated under Section 101(14) of CERCLA; any chemical facilities required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges" (40 CFR 122.26(b)(12)). Significant materials commonly found at steam electric power generating facilities include: coal; diesel fuel; and waste materials.

Historically, steam electric power generating facilities were categorized in accordance with the type of fuel they burned. Recently, however, steam electric power generating facilities have modified their equipment to enable them to use more than one fuel. Presented below are brief descriptions of the industrial activities and significant materials associated with the production of steam electric power. Due to the increase in facilities burning multiple fuels the industrial activities and significant materials are discussed together. However, the industrial activities and significant materials for nuclear powered facilities are discussed separately. Unique practices are noted.

a. Industrial Activities: Fossil Fuel Powered Plants. Steam electric power generation can be divided into four stages. In the first operation, fossil fuel (coal, oil, or natural gas) is burned in a boiler furnace. The evolving heat is used to produce pressurized and superheated steam. This steam is conveyed to the second stage, the turbine, where it gives energy to the rotating blades and, in the process, loses pressure and increases in volume. The rotating blades of the turbine act to drive an electric generator or alternator to convert the imparted mechanical energy into electrical energy. The steam leaving the turbine enters the third state, the condenser, where it is condensed to water. The liberated heat is transferred to a cooling medium which is normally water. Finally, the condensed steam is reintroduced into the boiler by a pump to complete the cycle.

Features unique to coal-fired plants include coal storage and preparation (transport, beneficiation, pulverization, drying), coal-fired boiler, ash handling and disposal systems, and flue gas cleaning, and desulfurization.

b. Significant Materials: Fossil Fuel Powered Plants. The type of fuel (coal, oil, gas, nuclear) used to fire power plant boilers most directly influences the number of waste streams. The influence comes principally from the effect of fuel on the volume of ash generated. Stations using heavy or residual oils generate fly ash in large quantities and may generate some bottom ash. Stations which burn coal create both fly ash and bottom ash. Bottom ash is the residue which accumulates on the furnace bottom, and fly ash is the lighter material which is carried over in the flue gas stream.

c. Industrial Activities: Nuclear Powered Plants. Nuclear power plants utilize a cycle similar to that used in fossil fueled power plants except that the source of heat is atomic interactions rather than the combustion of fossil fuel. Water serves as both moderator and coolant as it passes through the nuclear reactor core. In a pressurized water reactor, the heated water then passes through a separate heat exchanger where steam is produced on the secondary side. This steam, which contains radioactive materials, drives the turbines. In a boiling water reactor, steam is generated directly in the reactor core and is then piped directly to the turbine. This arrangement produces some radioactivity in the steam and therefore requires some shielding of the turbine and condenser.

d. Significant Materials: Nuclear Powered Plants. Few if any significant materials are exposed to storm water at nuclear powered steam electric facilities. Materials that are potentially exposed do not involve steam electric generating equipment, raw materials, or waste products. The materials that are exposed to storm water are office wastes and ground maintenance equipment and tools.

2. Pollutants in Storm Water Discharges Associated With Steam Electric Power Generating Facilities

Steam electric generating facilities are subject to effluent limitations guidelines that limit the number and variety of

industrial activities that are included in the storm water program. Pollutants may be present in storm water as a result of outdoor activities associated with steam electric power generating facilities such as: material handling and transport operations; waste disposal; and deposition of airborne particulate matter. In addition, sources of pollutants other than storm water, such as illicit connections,[92] spills, and other improperly dumped materials, may increase the pollutant loadings discharged into waters of the United States.

Many of the part 2 group application data submittals did not identify individual site characteristics or sources of storm water pollutants which may be responsible for pollutant loadings. In addition, because the industry has been moving toward combined fuel generating facilities, the part 2 sampling data was reviewed in the aggregate.

Table O–1 lists potential pollutant source activities and related pollutants associated with steam electric power generating facilities. The primary and largest potential source of storm water pollutants from fossil-fueled steam electric generating facilities is ash refuse piles.

TABLE O–1.—INDUSTRIAL ACTIVITIES, POLLUTANT SOURCES, AND POLLUTANTS FOR STEAM ELECTRIC POWER GENERATING FACILITIES

Activity	Pollutant source	Pollutant
Above Ground Liquid Storage Tank.	External corrosion and structural failure	Fuel, oil, heavy metals, ammonia, chlorine, sulfuric acid, sodium hydroxide, and other materials being stored.
	Installation problems	Fuel, oil, heavy metals, ammonia, chlorine, sulfuric acid, sodium hydroxide, and other materials being stored.
	Spills due to operator error	Fuel, oil, heavy metals, ammonia, chlorine, sulfuric acid, sodium hydroxide, and other materials being stored.
	Failure of piping systems	Fuel, oil, heavy metals, ammonia, chlorine, sulfuric acid, sodium hydroxide, and other materials being stored.
	Leaks or spills during pumping of liquids from barges, trucks, rail cars to a storage facility.	Fuel, oil, heavy metals, ammonia, chlorine, sulfuric acid, sodium hydroxide, and other materials being stored.
Vehicle and Equipment Maintenance.	Parts cleaning	Oil, heavy metals, chlorinated solvents, acid/alkaline wastes, ethylene glycol.
	Spills of oil, degreasers, hydraulic fluids, transmission fluid, radiator fluids.	Oil, arsenic, heavy metals, organics, chlorinated solvents, ethylene glycol.
	Fluids replacement	Oil, arsenic, heavy metals, organics, fuel.
Fueling Operations	Spills & leaks during fuel delivery	Fuel, oil, heavy metals.
	Spills caused by "topping off" fuel tanks	Fuel, oil, heavy metals.
	Leaking storage tanks	Fuel, oil, heavy metals.
	Allowing rainfall on the fuel area or storm water to run onto the fuel area.	Fuel, oil, heavy metals.
Coal Handling Areas	Fugitive dust emissions from coal handling	Suspended solids, copper, iron, aluminum, nickel, and trace metals.
	Spills during delivery	Suspended solids, copper, iron, aluminum, nickel, and trace metals.
	Offsite tracking of coal dust	Suspended solids, copper, iron, aluminum, nickel, and trace metals.
Ash Handling Areas, Ash Landfills.	Spills during transfer of ash to landfills	Suspended solids, chromium, copper, iron, zinc, oil and grease, aluminum.
	Offsite tracking of ash	Suspended solids, chromium, copper, iron, zinc, oil and grease, aluminum.
Scrapyards, Refuse Sites	Discarded material	Fuel, oils, heavy metals.

The ash composition from oil, on a weight percent basis, is much lower than that of coal. Oil ash rarely exceeds 0.3 percent of the input oil whereas coal ash comprises from 3 to 30 percent of the coal. In general, the ash content increases with increasing asphaltic constituents in which the sulfur acts largely as a bridge between aromatic rings.

The many elements which may appear in oil ash deposits include vanadium, sodium, and sulfur. Compounds containing these elements are found in almost every deposit in boilers fired by residual fuel oil and often constitute the major portion of these deposits. Oil ash, especially from plants using Venezuelan and certain Middle Eastern oil can contain significant amounts of nickel.

Some of the ash-forming constituents in the crude oil had their origin in animal and vegetable matter from which the oil was derived. The remainder is extraneous material resulting from contact of the crude oil with rock structures and salt brines or picked up during refining processes, storage, and transportation. Vanadium, iron, sodium, nickel, and calcium in fuel oil are common in rock strata, but elements including vanadium, nickel, zinc, and copper are believed to come from organic matter from which the petroleum was created.

[92] Illicit connections are contributions of unpermitted non-storm water discharges to storm sewers from any of a number of sources including sanitary sewers, industrial facilities, commercial establishments, or residential dwellings. The probability of illicit connections at steam electric facilities is low yet it still may be applicable at some operations.

The ash residue resulting from the combustion of coal is primarily derived from the inorganic matter in the coal. The chemical composition of dry bottom ash and fly ash are quite similar. The major constituents present in coal ash are silica, alumina, ferric oxide, calcium oxide, magnesium oxide, and minor amounts of sodium and potassium oxides. Other parameters which may be present include sulfur trioxide, carbon, boron, phosphorus, uranium, and thorium. The concentration differences can vary considerably from one site to another.[93]

When conducting their data analysis for their 1980 Development Document, the U.S. Environmental Protection Agency (EPA) found that there was no correlation between arsenic, nickel, zinc, copper, and selenium and total suspended solids, whenever their value was 30 mg/L or less.[94]

The quality of storm water runoff from coal handling areas is dependent on pH, as pH influences the release of toxic and heavy metals. Suspended solids levels result when storm water suspends coal particulates. Most of the total dissolved solids concentrations are a consequence of enhanced pyritic oxidation.

Storm water runoff from exposed sources of coal tends to be of an acid nature, primarily as a result of the oxidation of iron sulfide in the presence of oxygen and water.[95] The presence of certain acidophilic, chemoautotrophic bacteria, and a pH of 2.0 to 4.5 generally indicates storm water runoff high in iron, manganese, and total dissolved solids.[96]

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at steam electric power generating facilities as a whole and not subdivide this sector. Therefore, Table O–2 lists data for selected parameters from facilities in the steam electric power generating sector. These data include the eight pollutants that all facilities were required to monitor for under Form 2F, as well as the pollutants that EPA has determined may merit further monitoring.

TABLE O–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY STEAM ELECTRIC GENERATING FACILITIES SUBMITTING PART II SAMPLING DATA[1] (mg/L)

Pollutant, Sample type	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	29	33	78	80	5.8	5.7	0.0	0.0	45.0	37.0	4.3	4.0	20.3	16.8	38.4	29.5
COD	30	33	78	79	102.5	68.7	0.0	0.0	1410.0	540.0	32.5	39.0	332.8	188.3	739.8	333.6
Nitrate + Nitrite Nitrogen	30	33	78	79	5.47	0.73	0.00	0.00	350.00	3.90	0.36	0.41	4.34	2.41	11.17	4.66
Total Kjeldahl Nitrogen	30	33	78	80	2.36	1.90	0.00	0.00	22.30	19.1	1.20	0.99	7.35	5.37	14.95	10.26
Oil & Grease	34	N/A	90	N/A	1.4	N/A	0.0	N/A	20.0	N/A	0.0	N/A	7.3	N/A	19.5	N/A
pH	30	N/A	72	N/A	N/A	N/A	3.8	N/A	9.0	N/A	7.4	N/A	8.9	N/A	9.7	N/A
Total Phosphorus	30	33	77	80	0.81	0.65	0.00	0.00	6.00	7.20	0.30	0.28	3.56	2.62	9.27	6.45
Total Suspended Solids	30	33	78	79	504	208	0	0	22790	5554	44	40	1561	967	6077	3292
Iron, Total	29	32	67	73	7.0	6.3	0.0	0.0	67.0	191.0	1.8	1.4	34.7	19.9	117.0	58.1
Zinc, Total	14	17	33	38	0.300	0.250	0.000	0.000	5.500	4.200	0.07	0.08	1.164	0.725	3.389	1.607

[1] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[2] Composite samples.

3. Pollutant Control Measures Required Under Other EPA Programs.

The Agency recognizes that other EPA programs address pollution prevention at steam electric power generating facilities. The Oil Pollution Prevention Program (40 CFR Part 112) has established procedures to prevent the discharge of oil from nontransportation related onshore and offshore facilities. This program requires owners or operators of onshore and offshore facilities to prepare a Spill Prevention Control and Countermeasure Plan (SPCC Plan) for their facility if they could reasonably be expected to discharge oil, into or upon the navigable waters of the United States or adjoining shorelines, in quantities that violate applicable water quality standards, or cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. Guidelines for the preparation and implementation of a Spill Prevention Control and Countermeasure Plan can be found at 40 CFR 112.7.

Under the Resource Conservation and Recovery Act (RCRA) specific requirements have been established which address generators of hazardous wastes. Regulations have been developed which address the accumulation of hazardous waste onsite prior to transport to a hazardous waste disposal facility. These regulations address proper storage of hazardous wastes, emergency planning, and training personnel in proper handling procedures for hazardous wastes.

4. Storm Water Pollution Prevention Plan Requirements

The conditions that apply to steam electric power generating facilities are based on the requirements set forth in the common permit conditions for storm water discharges from industrial activities discussed in today's fact sheet. The discussion that follows only addresses conditions that differ from those common conditions. There are no additional pollution prevention requirements beyond the common conditions for nuclear powered steam electric generating facilities.

a. Description of Pollutant Sources. Under the description of pollutant sources in the storm water pollution prevention plan requirements, permittees are required to include a site map of the facility. The areas required to be identified on the site map now also include the following: landfills,

[93] EPA. Effluent Guidelines Division. "Development Document for Effluent Limitations Guidelines and Standards for the Steam Electric Point Source Category." September 1980. (EPA 440/1–80/029–b). Page 131.

[94] EPA. Effluent Guidelines Division. "Development Document for Effluent Limitations Guidelines and Standards for the Steam Electric Point Source Category." September 1980. (EPA 440/1–80/029–b). Page 138.

[95] EPA. Effluent Guidelines Division. "Development Document for Effluent Limitations Guidelines and Standards for the Steam Electric Point Source Category." September 1980. (EPA 440/1–80/029–b). Page 138.

[96] EPA. Effluent Guidelines Division. "Development Document for Effluent Limitations Guidelines and Standards for the Steam Electric Point Source Category." September 1980. (EPA 440/1–80/029–b). Page 138.

treatment ponds, scrap yards, general refuse areas, locations of short and long term storage of general materials, and the location of stock pile areas. EPA believes this is appropriate since these areas may potentially be significant sources of pollutants to storm water. In addition, the site map must also indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls (e.g., storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

b. Measures and Controls. Under the description of measures and controls in the storm water pollution prevention plan requirements, this section requires that all areas that may contribute pollutants to storm water discharges shall be maintained in a clean, orderly manner. This section also requires that the following 15 areas must be specifically addressed:

(1) Fugitive Dust Emissions. The plan must describe measures that prevent or minimize fugitive dust emissions from coal handling areas. The permittee shall consider establishing procedures to minimize offsite tracking of coal dust. To prevent offsite tracking the facility may consider specially designed tires, or washing vehicles in a designated area before they leave the site, and controlling the wash water.

(2) Delivery Vehicles. The plan must describe measures that prevent or minimize contamination of storm water runoff from delivery vehicles arriving on the plant site. At a minimum the permittee should consider the following:

(a) Develop procedures for the inspection of delivery vehicles arriving on the plant site, and ensure overall integrity of the body or container.

(b) Develop procedures to control leakage or spillage from vehicles or containers, and ensure that proper protective measures are available for personnel and environment.

(3) Fuel Oil Unloading Areas. The plan must describe measures that prevent or minimize contamination of storm water runoff from fuel oil unloading areas. At a minimum the facility operator must consider using the following measures or an equivalent:

(a) Use containment curbs in unloading areas.

(b) During deliveries station personnel familiar with spill prevention and response procedures must be present to ensure that any leaks or spills are immediately contained and cleaned up.

(c) Use spill and overflow protection (drip pans, drip diapers, and/or other containment devices shall be placed beneath fuel oil connectors to contain any spillage that may occur during deliveries or due to leaks at such connectors).

(4) Chemical Loading/Unloading Areas. The plan must describe measures that prevent or minimize the contamination of storm water runoff from chemical loading/unloading areas. At a minimum the permittee must consider using the following measures or an equivalent:

(a) Use containment curbs at chemical loading/unloading areas to contain spills.

(b) During deliveries station personnel familiar with spill prevention and response procedures must be present to ensure that any leaks or spills are immediately contained and cleaned up.

Where practicable chemical loading/unloading areas should be covered, and chemicals should be stored indoors.

(5) Miscellaneous Loading/Unloading Areas. The plan must describe measures that prevent or minimize the contamination of storm water runoff from loading and unloading areas. The facility may consider covering the loading area, minimizing storm water runon to the loading area by grading, berming, or curbing the area around the loading area to direct storm water away from the area, or locate the loading/unloading equipment and vehicles so that leaks can be controlled in existing containment and flow diversion systems.

(6) Liquid Storage Tanks. The plan must describe measures that prevent or minimize contamination of storm water runoff from above ground liquid storage tanks. At a minimum the facility operator must consider employing the following measures or an equivalent:

(a) Use protective guards around tanks.

(b) Use containment curbs.

(c) Use spill and overflow protection (drip pans, drip diapers, and/or other containment devices shall be placed beneath chemical connectors to contain any spillage that may occur during deliveries or due to leaks at such connectors).

(d) Use dry cleanup methods.

(7) Large Bulk Fuel Storage Tanks. The plan must describe measures that prevent or minimize contamination of storm water runoff from liquid storage tanks. At a minimum the facility operator must consider employing the following measures or an equivalent:

(a) Comply with applicable State and Federal laws, including Spill Prevention Control and Countermeasures (SPCC)

(b) Containment berms.

(8) The plan must describe measures to reduce the potential for an oil or chemical spill, or reference the appropriate section of their SPCC plan. At a minimum the structural integrity of all above ground tanks, pipelines, pumps and other related equipment shall be visually inspected on a weekly basis. All repairs deemed necessary based on the findings of the inspections shall be completed immediately to reduce the incidence of spills and leaks occurring from such faulty equipment.

(9) Oil Bearing Equipment in Switchyards. The plan must describe measures to reduce the potential for storm water contamination from oil bearing equipment in switchyard areas. The facility may consider level grades and gravel surfaces to retard flows and limit the spread of spills; collection of storm water runoff in perimeter ditches.

(10) Residue Hauling Vehicles. All residue hauling vehicles shall be inspected for proper covering over the load, adequate gate sealing and overall integrity of the body or container. Vehicles without load covers or adequate gate sealing, or with poor body or container conditions must be repaired as soon as practicable.

(11) Ash Loading Areas. Plant procedures shall be established to reduce and/or control the tracking of ash or residue from ash loading areas including, where practicable, requirements to clear the ash building floor and immediately adjacent roadways of spillage, debris and excess water before each loaded vehicle departs.

(12) Areas Adjacent to Disposal Ponds or Landfills. The plan must describe measures that prevent or minimize contamination of storm water runoff from areas adjacent to disposal ponds or landfills. The facility must develop procedures to:

(a) Reduce ash residue which may be tracked on to access roads traveled by residue trucks or residue handling vehicles.

(b) Reduce ash residue on exit roads leading into and out of residue handling areas.

(13) Landfills, Scrapyards, and General Refuse Sites. The plan must address landfills, scrapyards, and general refuse sites. The permittee is referred to Parts XI.L. and XI.N. of today's permit (Storm Water Discharges From Landfills and Land Application Sites and Scrap and Waste Material Processing and Recycling Facilities, respectively) for applicable Best Management Practices.

(14) Maintenance Activities. For vehicle maintenance activities

performed on the plant site, the permittee shall consider the applicable Best Management Practices outlined in Part XI.P. of today's permit (Storm Water Discharges From Vehicle Maintenance or Equipment Cleaning Operations at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, or the United States Postal Service).

(15) Material Storage Areas. The plan must describe measures that prevent or minimize contamination of storm water from material storage areas (including areas used for temporary storage of miscellaneous products and construction materials stored in lay down areas). The facility operator may consider flat yard grades, runoff collection in graded swales or ditches, erosion protection measures at steep outfall sites (e.g., concrete chutes, riprap, stilling basins), covering lay down areas, storing the materials indoors, covering the material with a temporary covering made of polyethylene, polyurethane, polypropylene, or hypalon. Storm water runon may be minimized by constructing an enclosure or building a berm around the area.

Based on information provided in part 1 of the group application process, the management practices applicable to the 15 areas listed above are commonly used at many steam electric power generating facilities. EPA believes that the incorporation of management practices to accomplish the objectives described above, in conjunction with the baseline requirements, will substantially reduce the potential for these activities and areas to significantly contribute to the pollution of storm water discharges. EPA believes that these requirements provide the necessary flexibility to address the variable risk for pollutants in storm water discharges associated with different facilities.

(c) Inspections. Under the inspection requirements of the storm water pollution prevention plan elements, this section requires that in addition to the comprehensive site evaluation required under Part VIII.C.4. of today's permit, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility on a monthly basis. The following areas shall be included in the inspection: coal handling areas, fueling areas, loading/unloading areas, switchyards, bulk storage areas, ash handling areas, areas adjacent to disposal ponds and landfills, maintenance areas, liquid storage tanks and long term and short term material storage areas. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained onsite.

The purpose of the inspections is to check on the implementation of the storm water pollution prevention plan. The inspections allow facility personnel to monitor the success or failure of elements of the plan on a regular basis.

d. Employee Training. Steam electric power generating facilities are required to identify periodic training dates in the pollution prevention plan, but in all cases training must be held at least annually. EPA believes that such a frequency is necessary due to the many areas with a high potential for contamination of storm water.

5. Numeric Effluent Limitations

Coal pile runoff is subject to the effluent guidelines described in Part V.B of today's permit. However, steam electric generating facilities must comply with the requirement of Part V.B immediately upon permit issuance. Steam electric generating facilities are not permitted to take 3 years to meet this requirement.

6. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. EPA believes that steam electric power generating facilities may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan and to characterize the discharge for potential environmental impacts, the permit requires steam electric power generating facilities to collect and analyze samples of their storm water discharges for the pollutant listed in Table O–3. The pollutant listed in Table O–3 was found to be above levels of concern for a significant portion of steam electric power generating facilities that submitted quantitative data in the group application process. Because this pollutant has been reported at or above levels of concern from steam electric power generating facilities, EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, zinc is above the bench mark concentrations for the steam electric generating facilities sector. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in this sector, EPA has determined that the higher concentrations of zinc are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require steam electric generating facilities to conduct analytical monitoring for this parameter.

At a minimum, storm water discharges from steam electric power generating facilities must be monitored quarterly during the second year of permit coverage. Samples must be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Table O–3. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE O–3.—MONITORING REQUIREMENTS FOR STEAM ELECTRIC POWER GENERATING FACILITIES

Pollutant of concern	Cut-Off concentration
Total Recoverable Iron ...	1.0 mg/L

If the average concentration for a parameter is less than or equal to the value listed in Table O–3, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Table O–3, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm

water discharges consistent with the average concentrations recorded during the second year of the permit.

TABLE O–5.—Schedule of Monitoring

2nd Year of Permit Coverage	• conduct quarterly monitoring. • calculate the average concentration for all parameters analyzed during this period. • if average concentration is greater than the value listed in Table O–3, then quarterly sampling is required during the fourth year of the permit. • if average concentration is less than or equal to the value listed in Table O–3, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• conduct quarterly monitoring for any parameter where the average concentration in year two of the permit is greater than the value listed in Table O–3. • if industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

The monitoring cut off concentrations listed in Table O–3 are not numerical effluent limitations. These values represent a level of pollutant discharge which facilities may achieve through the implementation of pollution prevention plans. At least half of the facilities which submitted Part 2 data, reported concentrations greater than or equal to the values listed in Table O–3. Facilities which achieve average discharge concentrations which are less than or equal to the values in Table O–3 are not relieved from the pollution prevention plan requirements or any other requirements of the permit.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative described below is necessary to ensure that monitoring requirements are only imposed on those facilities which do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of the monitoring reports required under paragraph c. below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph c. below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within three months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. For facilities conducting monitoring beyond the minimum requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first thirty minutes of the discharge. If the collection of a grab sample during the first thirty minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first thirty minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or non-process water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfalls provided that the permittee

includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40 percent), medium (40 to 65 percent) or high (above 65 percent)) shall be provided in the plan.

f. Compliance Monitoring Requirements. Today's permit requires permittees with coal pile runoff associated with steam electric power generation to monitor for the presence of total suspended solids and pH at least annually. These monitoring requirements are necessary to evaluate compliance with the numeric effluent limitation imposed on these discharges. Monitoring shall be performed upon a minimum of one grab sample. All samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. Monitoring results shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the last day of the month following collection of the sample. For each outfall, one Discharge Monitoring Report from must be submitted per storm event sampled. Facilities which discharge through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must also submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system. Alternative Certification provisions described in Section XI.O.5 do not apply to facilities subject to compliance monitoring requirements in this section. Compliance monitoring is required at least annually for discharges subject to effluent limitations. Therefore, EPA cannot permit a facility to waive compliance monitoring.

g. Quarterly Visual Examination of Storm Water Quality. Quarterly visual examinations of storm water discharges from each outfall are required at steam electric generating facilities. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each quarter of the permit during daylight unless there is insufficient rainfall or snow-melt to runoff. Where practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 60 minutes) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands on examination will enhance the staff's understanding of the storm water problems on that site and effects on the management practices that are included in the plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

P. Storm Water Discharges Associated With Industrial Activity From Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and United States Postal Service Transportation Facilities

1. Discharges Covered Under This Section

Special conditions have been developed for ground transportation facilities and rail transportation facilities that have vehicle and equipment maintenance shops (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication) and equipment cleaning operations. Vehicle and equipment maintenance is a broad term used to include the following activities: vehicle and equipment fluid changes, mechanical repairs, parts cleaning, sanding, refinishing, painting, fueling, locomotive sanding (loading sand for traction), storage of vehicles and equipment waiting for repair or maintenance, and storage of the related materials and waste materials, such as oil, fuel, batteries, tires, or oil filters. Equipment cleaning operations include areas where the following types of activities take place: vehicle exterior wash down, interior trailer washouts, tank washouts, and rinsing of transfer equipment. Any storm water discharges from facilities where such activities take place are subject to the special conditions described in Part XI.P. of today's permit.

The conditions in this section apply to storm water discharges from vehicle and equipment maintenance shops or cleaning operations located on any of the industrial facilities covered under the storm water application regulations (40 CFR 122.26) and applying for coverage under this permit.

As background, the storm water application regulations define storm water discharge associated with industrial activity at 40 CFR 122.26(b)(14). Category (viii) of this definition includes transportation facilities classified as Standard Industrial Classification (SIC) codes 40, 41, 42 (except 4221–25), 43, 44, 45, and 5171 that have vehicle and equipment maintenance shops, equipment cleaning operations, or airport deicing operations. The category further states that only those portions of the facility that are either involved in vehicle and equipment maintenance (including vehicle and equipment rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or airport deicing operations are associated with industrial activity. The facilities that would potentially be covered by this section of today's permit are transportation facilities (commonly assigned SIC codes 40, 41, 42, 43, and 5171).

This sector includes facilities primarily engaged in furnishing transportation by line-haul railroad, and switching and terminal establishments (SIC code 40). The following are examples of these types of facilities: electric railroad line-haul operation, railroad line-haul operation, interurban railways, beltline railroads, logging railroads, railroad terminals, and stations operated by railroad terminal companies.

Facilities primarily engaged in furnishing local and suburban transportation (SIC code 41), such as those providing transportation in and around a municipality by bus, rail, or subway are also covered under this section. Examples include: bus line operation, airport transportation service (road or rail), cable car operation, subway operation, ambulance service, sightseeing buses, van pool operation, limousine rental with drivers, taxicab operation, and school buses not operated by the educational institution.

In addition, facilities providing local or long-distance trucking, transfer, and/or storage services (SIC code 42) are included in this sector. The following are examples of such facilities: hauling by dump truck, trucking timber, contract mail carriers, furniture moving, garbage collection without disposal, over-the-road trucking, long distance trucking, and freight trucking terminal.

All establishments of the United States Postal Service (SIC code 43) and establishments engaged in the wholesale distribution of crude petroleum and petroleum products from bulk liquid storage facilities (SIC code 5171) are also covered under this sector.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Pollutants Found in Storm Water Discharges From Vehicle and Equipment Maintenance and Cleaning Operations

The following table lists potential pollutant source activities that commonly take place at vehicle and equipment maintenance and equipment cleaning operations.

TABLE P–1.—POTENTIAL POLLUTANT SOURCE ACTIVITIES AT VEHICLE AND EQUIPMENT MAINTENANCE AND EQUIPMENT CLEANING OPERATIONS

Activity	Pollutant source	Pollutant
Fueling	Spills and leaks during fuel delivery	Fuel, oil, heavy metals.
	Spills caused by "topping off" fuel tanks	Fuel, oil, heavy metals.
	Rainfall falling on the fuel area or storm water running onto the fuel area.	Fuel, oil, heavy metals.
	Hosing or washing down fuel area	Fuel, oil, heavy metals.
	Leaking storage tanks	Fuel, oil, heavy metals.
Vehicle and equipment maintenance.	Parts cleaning	Chlorinated solvents, oil, heavy metals, acid/alkaline wastes.
	Waste disposal of greasy rags, oil filters, air filters, batteries, hydraulic fluids, transmission fluid, radiator fluids, degreasers.	Oil, heavy metals, chlorinated solvents, acid/alkaline wastes, ethylene glycol.
	Spills of oil, degreasers, hydraulic fluids, transmission fluid, radiator fluids.	Oil, arsenic, heavy metals, organics, chlorinated solvents, ethylene glycol.
	Fluids replacement, including oil, hydraulic fluids, transmission fluid, radiator fluids.	Oil, arsenic, heavy metals, organics, chlorinated solvents, ethylene glycol.
Outdoor vehicle and equipment storage and parking.	Leaking vehicle fluids including hydraulic lines and radiators, leaking or improperly maintained locomotive on-board drip collection systems, brake dust..	Oil, hydraulic fluids, arsenic, heavy metals, organics, fuel.
Painting areas	Paint and paint thinner spills	Paint, spent chlorinated solvents, heavy metals.
	Spray painting	Paint solids, heavy metals.
	Sanding or paint stripping	Dust, paint solids, heavy metals.
	Paint clean-up	Paint, spent chlorinated solvents, heavy metals.
Railroad locomotive sanding	Loading traction sand on locomotives	Sediment.
Vehicle or equipment washing areas.	Washing or steam cleaning	Oil, detergents, heavy metals, chlorinated solvents, phosphorus, salts, suspended solids.
Liquid storage in above ground storage.	External corrosion and structural failure	Fuel, oil, heavy metals, materials being stored.
	Installation problems	Fuel, oil, heavy metals, materials being stored.
	Spills and overfills due to operator error	Fuel, oil, heavy metals, materials being stored.
	Failure of piping systems (pipes, pumps, flanges, couplings, hoses, and valves).	Fuel, oil, heavy metals, materials being stored

TABLE P–1.—POTENTIAL POLLUTANT SOURCE ACTIVITIES AT VEHICLE AND EQUIPMENT MAINTENANCE AND EQUIPMENT CLEANING OPERATIONS—Continued

Activity	Pollutant source	Pollutant
	Leaks or spills during pumping of liquids from barges, trucks, or rail cars to a storage facility.	Fuel, oil, heavy metals, materials being stored.
Cold weather activities	Salt application	Sodium chloride.
	Dirt/ash application	Suspended solids, heavy metals
Improper connections to storm sewer.	Process wastewater	Dependent on operations.
	Sanitary water	Bacteria, biochemical oxygen demand (BOD), suspended solids.
	Floor drains	Oil, heavy metals, chlorinated solvents, fuel, ethylene glycol.
	Vehicle washwaters	Oil, detergents, metals, chlorinated solvents, phosphorus, suspended solids.
	Radiator flushing wastewater	Ethylene glycol.
	Leaky underground storage tanks	Materials stored or previously stored.

Sources: EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention—The Automotive Refinishing Industry." EPA/625/7–91/016.
EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention—The Automotive Repair Industry." EPA/625/7–91/013.
EPA, Office of Research and Development. May 1992. "Facility Pollution Prevention Guide." EPA/600/R–92/088.
EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities—Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.
U.S. Postal Service. May 1992. "NPDES/Storm Water Guide." AS–554.

Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the land transportation industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: railroad transportation; local and highway passenger transportation; motor freight transportation and warehousing; United States Postal Service; and petroleum bulk stations and terminals. The tables below include data for the eight pollutants that all facilities were required to monitor for under Form 2F. The tables also list those parameters that EPA has determined may merit further monitoring.

TABLE P–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY RAILROAD TRANSPORTATION FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant, Sample	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	100	89	141	126	17.3	9.8	0.0	0.0	310.0	155.0	7.0	5.0	51.8	26.8	102.8	44.8
COD	102	89	143	124	320.8	179.8	0.0	0.0	11600	5470.0	145.0	89.0	879.3	475.3	1648.1	927.8
Nitrate + Nitrite Nitrogen	103	89	144	124	1.57	1.32	0.00	0.00	19.50	19.00	0.92	0.78	5.66	3.68	12.01	5.76
Total Kjeldahl Nitrogen	103	89	144	124	4.36	3.00	0.00	0.00	70.00	56.00	1.90	1.50	13.63	6.79	29.13	17.39
Oil & Grease	104	N/A	144	N/A	33.7	N/A	0.0	N/A	5340.0	N/A	0.0	N/A	46.52	N/A	140.26	N/A
pH	98	N/A	133	N/A	N/A	N/A	3.6	N/A	10.2	N/A	7.3	N/A	9.2	N/A	10.2	N/A
Total Phosphorus	103	89	144	124	2.85	1.02	0.00	0.00	185.00	23.00	0.55	0.44	7.06	3.51	19.63	8.19
Total Suspended Solids	103	89	144	124	474	221	0	0	4680	2820	176	77	2717	1000	9367	2853
Lead, Total	5	4	4	6	0.068	0.048	0.042	0.012	0.130	0.070	0.09	0.08	0.208	0.151	0.313	0.268
Zinc, Total	3	4	3	5	0.487	0.337	0.140	0.160	0.920	0.510	0.40	0.29	1.756	0.704	3.341	0.995

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE P–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY LOCAL AND HIGHWAY PASSENGER TRANSPORTATION FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant, Sample	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	46	45	50	50	15.9	12.3	0.0	0.0	235.5	104.8	5.5	6.3	46.4	41.3	91.0	85.4
COD	47	45	51	50	51.4	39.2	0.0	0.0	376.0	218.0	18.5	18.4	106.2	123.0	411.4	228.8
Nitrate + Nitrite Nitrogen	46	43	50	48	14.38	7.66	0.00	0.10	181.40	104.00	1.79	1.30	66.44	26.71	265.35	96.75
Total Kjeldahl Nitrogen	45	44	49	49	4.22	2.37	0.00	0.00	81.26	15.74	1.02	1.20	11.84	5.09	24.12	16.53
Oil & Grease	53	N/A	58	N/A	47.1	N/A	0.0	N/A	771.0	N/A	5.0	N/A	183.0	N/A	821.6	N/A
pH	52	N/A	58	N/A	N/A	N/A	4.7	N/A	9.4	N/A	7.0	N/A	8.8	N/A	9.7	N/A
Total Phosphorus	47	45	52	50	0.92	0.65	0.00	0.00	7.58	7.00	0.33	0.33	3.40	2.32	8.26	5.12
Total Suspended Solids	46	46	50	51	246	134	0	0	2926	892	70	41	1319	725	4590	2997

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE P–4.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant, Sample	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	183	160	227	212	16.5	9.1	0.0	0.0	510.0	86.0	7.0	5.5	48.0	27.4	100.2	49.8
COD	185	166	242	216	146.1	82.0	0.0	0.0	1800.0	800.0	79.0	50.5	475.6	253.8	968.6	479.6
Nitrate + Nitrite Nitrogen	179	168	234	216	1.47	1.30	0.00	0.00	90.80	60.50	0.61	0.48	3.86	3.63	8.21	6.16
Total Kjeldahl Nitrogen	185	169	242	211	2.25	1.46	0.00	0.00	34.00	15.00	1.40	1.10	8.73	4.25	12.70	7.30
Oil & Grease	186	N/A	245	N/A	14.0	N/A	0.0	N/A	1340.0	N/A	2.6	N/A	37.8	N/A	95.1	N/A
pH	161	N/A	215	N/A	N/A	N/A	2.6	N/A	9.5	N/A	7.3	N/A	9.6	N/A	11	N/A
Total Phosphorus	184	157	238	208	1.09	0.61	0.00	0.00	37.40	5.80	0.32	0.29	3.64	2.18	9.30	4.72
Total Suspended Solids	185	158	242	210	486	360	0	0	4700	20000	150	90	2638	1446	9012	4615
Zinc, Total	7	5	7	5	0.294	0.186	0.031	0.020	1.100	0.370	0.17	0.09	1.111	0.680	2.434	1.496

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE P–5.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY UNITED STATES POSTAL SERVICE FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant, Sample	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	16	16	22	22	8.1	9.2	0.0	0.0	25.0	62.0	5.5	4.8	22.6	25.2	38.0	44.5
COD	16	16	22	22	51.4	33.8	5.6	0.0	350.0	190.0	26.5	19.5	148.2	95.5	291.5	187.6
Nitrate + Nitrite Nitrogen	16	16	22	22	0.52	0.75	0.11	0.07	1.30	1.80	0.40	0.61	1.47	2.51	2.57	4.81
Total Kjeldahl Nitrogen	16	16	22	22	1.80	1.91	0.00	0.00	11.00	11.00	1.05	0.97	5.01	6.08	8.98	12.22
Oil & Grease	16	N/A	22	N/A	5.4	N/A	0.0	N/A	21.0	N/A	4.4	N/A	16.0	N/A	27.3	N/A
pH	16	N/A	22	N/A	N/A	N/A	0.1	N/A	8.4	N/A	6.7	N/A		N/A		N/A
Total Phosphorus	16	16	22	22	0.46	0.47	0.00	0.00	2.50	3.40	0.28	0.20	1.41	1.79	2.77	4.48
Total Suspended Solids	15	16	21	22	16	13	0	0	77	86	4	1	88	77	210	254
Zinc, Total	14	15	18	18	0.228	0.175	0.000	0.000	1.400	0.660	0.11	0.11	1.870	1.089	6.335	2.896

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE P–6.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY PETROLEUM BULK STATIONS AND TERMINALS SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant, Sample	# of Facilities		# of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	11	10	11	10	27.7	10.2	1.3	0.0	120.0	31.0	8.0	9.0	111.5	26.0	303.4	40.6
COD	11	10	11	10	118.3	75.9	15.0	9.3	390.0	200.0	94.0	60.5	432.7	232.4	900.6	412.4
Nitrate + Nitrite Nitrogen	11	10	11	10	1.07	0.74	0.00	0.00	5.10	2.90	0.35	0.39	4.83	3.20	13.44	7.51
Total Kjeldahl Nitrogen	10	9	10	9	2.60	2.02	0.00	0.00	5.80	4.60	2.80	2.00	7.14	4.39	11.47	6.11
Oil & Grease	11	N/A	11	N/A	8.8	N/A	0.0	N/A	28.0	N/A	5.4	N/A	36.7	N/A	78.5	N/A
pH	10	N/A	10	N/A	N/A	N/A	6.0	N/A	9.3	N/A	7.8	N/A	9.6	N/A	10.5	N/A
Total Phosphorus	11	10	11	10	0.61	0.45	0.00	0.04	4.60	2.0	0.12	0.27	1.90	1.71	4.82	3.92
Total Suspended Solids	11	10	11	10	253	151	6	0	1090	560	106	93	1612	633	5567	1387

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

3. Options for Controlling Pollutants

The measures commonly implemented to reduce pollutants in storm water associated with vehicle and equipment maintenance and equipment cleaning operations are generally uncomplicated practices. The following table identifies best management practices (BMPs) associated with different activities that routinely take place at vehicle and equipment maintenance and equipment cleaning operations.

TABLE P–7.—COMMON STORM WATER MANAGEMENT CONTROLS FOR ACTIVITIES AT VEHICLE AND EQUIPMENT MAINTENANCE SHOPS

Activity	BMPs
Fueling	Use spill and overflow protection. Minimize runon of storm water into the fueling area by grading the area such that storm water only runs off. Reduce exposure of the fuel area to storm water by covering the area. Use dry cleanup methods for fuel area rather than hosing the fuel area down. Use proper petroleum spill control. Perform preventive maintenance on storage tanks to detect potential leaks before they occur. Inspect the fueling area to detect problems before they occur. Train employees on proper fueling techniques.
Vehicle and equipment maintenance	Maintain an organized inventory of materials used in the maintenance shop. Dispose of greasy rags, oil filters, air filters, batteries, spent coolant, and degreasers properly. Label and track the recycling of waste material (e.g., used oil, spent solvents, batteries).

TABLE P–7.—COMMON STORM WATER MANAGEMENT CONTROLS FOR ACTIVITIES AT VEHICLE AND EQUIPMENT MAINTENANCE SHOPS—Continued

Activity	BMPs
	Drain oil filters before disposal or recycling.
	Drain and contain all fluids from wrecked vehicles and "parts" cars.
	Store cracked batteries in a nonleaking secondary container.
	Promptly transfer used fluids to the proper container; do not leave full drip pans or other open containers around the shop. Empty and clean drip pans and containers.
	Do not pour liquid waste down floor drains, sinks, or outdoor storm drain inlets.
	Plug floor drains that are connected to the storm or sanitary sewer; if necessary, install a sump that is pumped regularly.
	Inspect the maintenance area regularly for proper implementation of control measures.
	Train employees on proper waste control and disposal procedures.
Outdoor vehicle and equipment storage and parking.	Use drip pans under all vehicles and equipment waiting for maintenance.
	Cover the storage area with a roof.
	Inspect the storage yard for filling drip pans and other problems regularly.
	Train employees on procedures for storage and inspection items.
Locomotive sanding areas	Cover sand storage piles.
	Install sediment traps.
	Install curbs or dikes around storage piles to minimize storm water runon.
Painting areas	Keep paint and paint thinner away from traffic areas to avoid spills.
	Spray paint in an Occupational Safety and Health Act (OSHA) approved hood.
	Use effective spray equipment that delivers more paint to the target and less over-spray.
	Avoid sanding in windy weather and collect and dispose of waste properly.
	Recycle paint, paint thinner, and solvents.
	Inspect painting procedures to ensure that they are conducted properly.
	Train employees on proper sanding, painting, and spraying techniques.
Vehicle or equipment washing areas	Avoid washing parts or equipment outside.
	Use phosphate-free biodegradable detergents.
	Designate an area for cleaning activities.
	Contain and recycle washwaters.
	Ensure that washwaters drain well.
	Inspect cleaning area regularly.
	Train employees on proper washing procedures.
Liquid storage in above ground storage	Maintain good integrity of all storage containers.
	Install safeguards (such as diking or berming) against accidental releases at the storage area.
	Inspect storage tanks to detect potential leaks and perform preventive maintenance.
	Inspect piping systems (pipes, pumps, flanges, couplings, hoses, and valves) for failures or leaks.
	Train employees on proper filling and transfer procedures.
Cold weather activities	Minimize salt application.
	Use uncontaminated dirt or ash, if use is necessary.
	Train employees on proper salt, dirt, sand, or ash application
Improper connections to storm sewer	Plug all floor drains connected to sanitary or storm sewer or if connection is unknown. Alternatively, install a sump that is pumped regularly.
	Perform smoke or dye testing to determine if interconnections exist between sanitary water system and storm sewer system.
	Update facility schematics to accurately reflect all plumbing connections.
	Install a safeguard against vehicle washwaters entering the storm sewer unless permitted.
	Maintain and inspect the integrity of all underground storage tanks; replace when necessary.
	Train employees on proper disposal practices for all materials.

Sources: NPDES Storm Water Group Applications—Part 1. Received by EPA March 18, 1991, through December 31, 1992.
EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention—The Automotive Refinishing Industry." EPA/625/7–91/016.
EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention—The Automotive Repair Industry." EPA/625/7–91/013.
EPA, Office of Research and Development. May 1992. "Facility Pollution Prevention Guide." EPA/600/R–92/088.
EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities—Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.
U.S. Postal Service. May 1992. "NPDES/Storm Water Guide." AS–554.

4. Pollutant Control Measures Required Through Other EPA Programs

EPA recognizes that other programs address the operation of vehicle and equipment maintenance and equipment cleaning operations. In particular, as described below, the Resource Conservation and Recovery Act (RCRA) and the Underground Storage Tank (UST) programs require careful management of materials used onsite which decreases the probability that storm water from such areas will be contaminated by these materials.

Under the RCRA program, on September 10, 1992, EPA promulgated standards in 40 CFR Part 279 for the management of used oils that are recycled (57 FR 41566). These standards include requirements for used oil generators, transporters, processors/re-refiners, and burners. The standards for used oil generators apply to all generators, regardless of the amount of used oil they generate. Do-it-yourself (DIY) generators which generate used oil from the maintenance of their personal vehicles, however, are not subject to the management standards (Section 279.20(a)(1)).

The requirements for used oil generators were designed to impose a minimal burden on generators while

protecting human health and the environment from the risks associated with managing used oil. Under Subpart C of 40 CFR Part 279, used oil generators must not store used oil in units other than tanks, containers, or units subject to regulation under Part 264 or 265 of 40 CFR (Section 279.22(a)). In other words, generators may store used oil in tanks or containers that are not subject to Subpart J (Hazardous Waste Tanks) or Subpart I (Containers) of Parts 264/265, as long as such tanks or containers are maintained in compliance with the used oil management standards. This does not preclude generators from storing used oil in Subpart J tanks or Subpart I containers or other units, such as surface impoundments (Subpart K), that are subject to regulation under Part 264 or 265.

Storage units at generator facilities must be maintained in good condition and labeled with the words "used oil." Upon detection of a release of used oil to the environment, a generator must take steps to stop the release, contain the released used oil, and properly manage the released used oil and other materials (Sections 279.22(b) to (d)). Generators storing used oil in underground storage tanks are subject to the UST regulations in 40 CFR Part 280.

If used oil generators ship used oil offsite for recycling, they must use a transporter who has notified EPA and obtained an EPA identification number (Section 279.24).

The technical standards for USTs at 40 CFR Part 280 require that new UST systems (defined as systems for which installation commenced after December 12, 1988) use overfill prevention equipment that will: 1) automatically shut off flow into the tank when the tank is no more than 95 percent full; or 2) alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high level alarm. The preceding requirements do not apply to systems that are filled by transfers of no more than 25 gallons at one time. Existing UST systems (defined as systems for which installation has commenced on or before December 12, 1988) are required to have installed the described overfill prevention equipment by December 12, 1998.

5. Special Conditions

The permit conditions that apply to ground transportation facilities build upon the requirements set forth in the common permit conditions for storm water discharges from industrial activities described in the front of this fact sheet. The discussion that follows, therefore, only addresses conditions that differ from those required in that section.

Due to concern that many non-storm water discharges may be present at vehicle and equipment cleaning and maintenance facilities, EPA is requiring that all facilities provide proof that these discharges are not commingled and are appropriately controlled so as to protect all receiving waters.

Today's permit clarifies in Part III.A.2. (Prohibition of Non-storm Water Discharges) that non-storm water discharges, including vehicle and equipment washwaters, are not authorized by this permit. The operators of such non-storm water discharges must obtain coverage under a separate NPDES permit if discharged to waters of the U.S. or through a municipal separate storm sewer system or comply with applicable industrial pretreatment requirements if discharged to a municipal sanitary sewer system. In a related requirement under the storm water pollution prevention plan requirements, the permittee is required to attach a copy of the NPDES permit issued for vehicle washwaters or, if an NPDES permit has not yet been issued, a copy of pending application to the plan. For facilities that discharge vehicle and equipment washwaters to the sanitary sewer system, the operator of the sanitary system and associated treatment plant must be notified. A copy of the notification letter must be attached to the plan. If an industrial user permit is issued under a pretreatment program, a copy of that permit must be attached in the plan as does any other permit to which the facility is subject. Some facilities may use other methods of disposal, such as collecting and hauling the wash water offsite. In these cases, the facility must document how the wash water is disposed and attach all pertinent documentation of that disposal practice to the plan.

6. Storm Water Pollution Prevention Plan Requirements

a. Description of Potential Pollutant Sources. Under the description of potential pollutant sources in the storm water pollution prevention plan requirements, permittees are required to include storage areas for vehicles and equipment awaiting maintenance on their facility site map. EPA believes that this is appropriate since this area may potentially be a significant source of pollutants to storm water.

b. Measures and Controls. Under the description of measures and controls in the storm water pollution prevention plan requirements, this section requires that all areas that may contribute pollutants to storm waters discharges shall be maintained in a clean, orderly manner. This section also requires that the following areas must be specifically addressed:

(1) Vehicle and Equipment Storage Areas. The storage of vehicles and equipment with actual or potential fluid leaks must be confined to designated areas (delineated on the site map). The plan must describe measures that prevent or minimize contamination of the storm water runoff from these areas. The facility shall consider the use of drip pans under vehicles and equipment, indoor storage of the vehicles and equipment, installation of berming and diking of this area, use of absorbents, roofing or covering storage areas, cleaning pavement surface to remove oil and grease, or other equivalent methods.

(2) Fueling Areas. The plan must describe measures that prevent or minimize contamination of the storm water runoff from fueling areas. The facility shall consider covering the fueling area, using spill and overflow protection and cleanup equipment, minimizing runon of storm water to the fueling area, using dry cleanup methods, collecting the storm water runoff and providing treatment or recycling, or other equivalent measures.

(3) Material Storage Areas. Storage units of all materials (e.g., used oil, used oil filters, spent solvents, paint wastes, radiator fluids, transmission fluids, hydraulic fluids) must be maintained in good condition, so as to prevent contamination of storm water, and plainly labeled (e.g., "used oil," "spent solvents," etc.). The plan must describe measures that prevent or minimize contamination of the storm water runoff from such storage areas. The facility shall consider indoor storage of the materials, installation of berming and diking of the area or other equivalent methods.

(4) Vehicle and Equipment Cleaning Areas. The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for vehicle and equipment cleaning. The facility shall consider performing all cleaning operations indoors, covering the cleaning operation, ensuring that all washwaters drain to the intended collection system (i.e., not the storm water drainage system unless NPDES permitted), collecting the storm water runoff from the cleaning area and providing treatment or recycling, or other equivalent measures. The discharge of vehicle and equipment wash waters, including tank cleaning operations, are

not authorized by this section and must be covered under a separate NPDES permit or discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements.

(5) Vehicle and Equipment Maintenance Areas. The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for vehicle and equipment maintenance. The facility shall consider performing all maintenance activities indoors, using drip pans, maintaining an organized inventory of materials used in the shop, draining all parts of fluids prior to disposal, prohibiting the practice of hosing down the shop floor where the practice would result in the exposure of pollutants to storm water, using dry cleanup methods, collecting the storm water runoff from the maintenance area and providing treatment or recycling, or other equivalent measures.

(6) Locomotive Sanding (Loading Sand for Traction) Areas. The plan must describe measures that prevent or minimize contamination of the storm water runoff from areas used for locomotive sanding (including locomotive sanding). The facility shall consider covering sanding areas, minimizing storm water runon/runoff, appropriate sediment removal practices to minimize the offsite transport of sanding material by storm water, or other equivalent measures.

As documented earlier, these six areas are the common sources of pollutants in storm water from vehicle and equipment cleaning and maintenance activities. Based upon the information provided in part 1 of the group application process, the suggested management measures are commonly used at ground transportation facilities. EPA believes that the incorporation of management practices such as those suggested, in conjunction with the baseline requirements, will substantially reduce the potential that these activities and areas will significantly contribute to the pollution of storm water discharges. In addition, EPA believes that these requirements continue to provide the necessary flexibility to address the variable risk for pollutants in storm water discharges associated with different facilities. Further, many facilities will find that management measures that they have already incorporated into the facility's operation, such as the installation of overfill protection equipment and labelling and maintenance of used oil storage units, that are already required under existing EPA programs will meet the requirements of this section.

Under the inspection requirements of the storm water pollution prevention plan elements, this section requires that in addition to the comprehensive site evaluation required under Part XI of today's permit, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility, at a minimum, on a quarterly basis. The following areas shall be included in all inspections: storage areas for vehicles and equipment awaiting maintenance, fueling areas, vehicle and equipment maintenance areas (both indoors and outdoors), material storage areas, vehicle and equipment cleaning areas, and loading and unloading areas. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of all inspections shall be maintained.

The purpose of the inspections is to check on the implementation of the storm water pollution prevention plan. The inspections allow facility personnel to monitor the success or failure of elements of the plan on a regular basis. The discharger is encouraged to coordinate these quarterly inspections with the quarterly visual examinations of storm water discharges required under the monitoring section of the permit. The use of an inspection checklist is recommended. The checklist will ensure that all required areas are inspected, as well as help to meet the recordkeeping requirements.

Under the employee training component of the storm water pollution prevention plan requirements, the permittee is required to identify annual (once per year) dates for such training. Employee training must, at a minimum, address the following areas when applicable to a facility: used oil management; spent solvent management; spill prevention and control; fueling procedures; general good housekeeping practices; proper painting procedures; and used battery management. Unlike some industrial operations, the industrial activities associated with vehicle and equipment maintenance that may affect storm water quality require the cooperation of many employees, not just one or two people. EPA, therefore, is requiring that employee training take place at least once a year to serve as: (1) training for new employees that may be involved in storm water pollution prevention; (2) a refresher course for existing employees involved in storm water pollution prevention; and (3) training for all affected employees on any storm water pollution prevention techniques recently incorporated into the plan.

7. Monitoring and Reporting Requirements

a. Monitoring Requirements. The regulatory modifications at 40 CFR 122.44(i)(2) established on April 2, 1992, grant permit writers the flexibility to reduce monitoring requirements in storm water discharge permits. EPA has determined that the potential for storm water discharges to contain pollutants above benchmark levels, because of the industrial activities and materials exposed to precipitation, does not support sampling at facilities in this section of today's permit. Based on a consideration of the BMPs typically used at these facilities, and generally low pollutant values from the application data, EPA believes that the pollution prevention plan with visual observations of storm water discharges will help to ensure storm water contamination is minimized. Because permittees are not required to conduct sampling, they will be able to focus their resources on developing and implementing the pollution prevention plan.

Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, nitrate plus nitrite nitrogen, lead and/or zinc are above the bench mark concentrations for the railroad transportation, local and highway passenger transportation, motor freight transportation and warehousing, and United States Postal services subsectors. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in these subsectors, EPA has determined that the higher concentrations of nitrate plus nitrite nitrogen, lead and/or zinc are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require railroad transportation, local and highway passenger transportation, motor freight transportation and warehousing, and United States Postal services facilities to conduct analytical monitoring for these parameters.

Quarterly visual examinations of a storm water discharge from each outfall are required at ground transportation facilities. The examination must be of a

grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, turbidity, floating solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each designated period during facility operation in the daylight hours unless there is insufficient rainfall or snow-melt to runoff. EPA expects that, whenever practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Examinations shall be conducted in each of the following periods for the purposes of inspecting storm water quality associated with storm water runoff and snow melt: January through March; April through June; July through September; October through December. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 60 minutes) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the results of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

As discussed above, EPA does not believe that chemical monitoring is necessary for facilities in this section of today's permit. EPA believes that between quarterly inspections, quarterly visual examinations, and site compliance evaluations potential sources of contaminants can be recognized, addressed, and then controlled with BMPs. In determining the monitoring requirements, EPA considered the nature of the industrial activities and significant materials exposed at these sites, and performed a review of data provided in Part 2 group applications.

Q. Storm Water Discharges Associated With Industrial Activity From Water Transportation Facilities That Have Vehicle Maintenance Shops and/or Equipment Cleaning Operations

1. Discharges Covered Under This Section

Special conditions have been developed for water transportation facilities that have vehicle and equipment maintenance shops (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling, and lubrication) and equipment cleaning operations. Vehicle and equipment maintenance is a broad term used to include the following activities: vessel and equipment fluid changes, mechanical repairs, parts cleaning, sanding, blasting, welding, refinishing, painting, fueling, and storage of the related materials and waste materials, such as oil, fuel, batteries, or oil filters. Equipment cleaning operations include areas where vessel and vehicle exterior washdown takes place. The conditions in this section apply to storm water discharges from vehicle and equipment maintenance shops or cleaning operations located at water transportation facilities covered under the storm water application regulations (40 CFR 122.26) and applying for coverage under today's permit.

The storm water application regulations define storm water discharges associated with industrial activity at 40 CFR 122.26(b)(14). Category (viii) of this definition includes transportation facilities classified as Standard Industrial Classification (SIC) codes 40, 41, 42 (except 4221–25), 43, 44, 45, and 5171 that have vehicle and equipment maintenance shops, equipment cleaning operations, or airport deicing operations. The category further states that only those portions of the facility that are either involved in vehicle and equipment maintenance (including vehicle and equipment rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or airport deicing operations are associated with industrial activity. The conditions in this section only apply to water transportation facilities.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

Facilities covered by this section of today's permit are commonly identified by SIC code major group 44.

SIC code 44 includes facilities primarily engaged in furnishing water transportation services. The following types of facilities are examples of those covered under SIC code 44:

a. Deep Sea Foreign Transportation of Freight (SIC 4412).

b. Deep Sea Domestic Transportation of Freight (SIC 4424).

c. Freight Transportation on the Great Lakes—St. Lawrence Seaway (SIC 4432).

d. Water Transportation of Freight, Not Elsewhere Classified (SIC 4449). Including: canal barge operations; canal freight transportation; intracoastal

freight transportation lake freight transportation, except on the Great Lakes; log rafting and towing; river freight transportation, except on the St. Lawrence Seaway; and transportation of freight on bays and sounds of the oceans.

e. Deep Sea Transportation of Passengers, Except by Ferry (SIC 4481).

f. Ferries (SIC 4482). Including: car lighters (ferries); and railroad ferries.

g. Water Transportation of Passengers, Not Elsewhere Classified (SIC 4489). Including: airboats (swamp buggy rides); excursion boat operations; passenger water transportation on rivers and canals; sightseeing boats; and water taxis.

h. Marine Cargo Handling (SIC 4491). Including: docks, including buildings and facilities; loading vessels; marine cargo handling; piers, including buildings and facilities; ship hold cleaning; stevedoring; unloading vessels; and waterfront terminal operation.

i. Towing and Tugboat Services (SIC 4492). Including: docking of ocean vessels; shifting of floating equipment within harbors; towing services, marine; tugboat service; and undocking of ocean vessels.

j. Marinas (SIC 4493).[97] Including: boat yards, storage and incidental repair; and yacht basins.

k. Water Transportation Services, Not Elsewhere Classified (SIC 4499). Including: boat cleaning; boat hiring, except pleasure; boat livery, except pleasure; boat rental, commercial; canal operation; cargo salvaging, from distressed vessels; chartering of commercial boats; dismantling ships; lighterage; marine railways for drydocks; marine salvaging; marine surveyors, except cargo; marine wrecking, ships for scrap; piloting vessels in and out of harbors; ship cleaning, except hold cleaning; ship registers: survey and classification of ships and marine equipment; and steamship leasing.

2. Pollutants Found in Storm Water Discharges

Table Q–1 lists potential pollutant source activities that commonly take place at water transportation vehicle maintenance and equipment cleaning operations.

TABLE Q–1.—INDUSTRIAL ACTIVITIES, POLLUTANT SOURCES, AND POLLUTANTS

Activity	Pollutant source	Pollutant
Pressure Washing	Wash water	Paint solids, heavy metals, suspended solids.
Surface Preparation Paint Removal Sanding	Sanding; mechanical grinding; abrasive blasting; paint stripping.	Spent abrasives, paint solids, heavy metals, solvents, dust.
Painting	Paint and paint thinner spills; spray painting; paint stripping; sanding; paint cleanup.	Paint solids, spent solvents, heavy metals, dust.
Engine Maintenance and Repairs	Parts cleaning; waste disposal of greasy rags, used fluids, and batteries; use of cleaners & degreasers; fluid spills; fluid replacement.	Spent solvents, oil, heavy metals, ethylene glycol, acid/alkaline wastes, detergents.
Material Handling: Transfer Storage Disposal	Fueling: spills; leaks; and hosing area	Fuel, oil, heavy metals.
	Liquid Storage in Above Ground Storage: spills and overfills; external corrosion; failure of piping systems.	Fuel, oil, heavy metals, material being stored.
	Waste Material Storage and Disposal: paint solids; solvents; trash; spent abrasives; petroleum products.	Paint solids, heavy metals, spent solvents, oil.
Shipboard Processes improperly discharged to storm sewer or into receiving water.	Process & cooling water; sanitary waste; bilge & ballast water.	Biochemical oxygen demand (BOD), bacteria, suspended solids, oil, fuel.

Sources: EPA, Office of Water and Hazardous Materials. December 1979. "Draft Development Document for Proposed Effluent Limitations Guidelines and Standards for the Shipbuilding and Repair Industry." EPA/440/1–79/076–b.

University of South Alabama, College of Engineering. September 1992. "Best Management Practices for the Shipbuilding and Repair Industry and for Bridge Maintenance Activities." College of Engineering Report No. 92–2.

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EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention—The Automotive Refinishing Industry." EPA/625/7–91/016.

EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention—The Automotive Repair Industry." EPA/625/7–91/013.

EPA, Office of Research and Development. May 1992. "Facility Pollution Prevention Guide." EPA/600/R–92/088.

EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities—Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.

U.S. Postal Service. May 1992. "NPDES/Storm Water Guide." AS–554.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at water transportation facilities having vehicle maintenance and/or equipment cleaning operations as a whole and not subdivide this sector. Therefore, Table Q–2 lists data for selected parameters from facilities in the water transportation sector. These data include the eight pollutants that all facilities were required to monitor for under Form 2F, as well as the pollutants that EPA determined merit further monitoring.

[97] "Guidelines for the Determination of Regulatory Status of Marinas and Related Operations." Facilities that are "primarily engaged" in operating marinas are best classified as SIC 4493—marinas. These facilities rent boat skips, store boats and generally perform a range of other marine services including boat cleaning and incidental boat repair. They frequently sell food, fuel, fishing supplies and may sell boats. For facilities classified as 4493 that are involved in vehicle (vessel) maintenance activities (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) or equipment cleaning operations, those portions of the facility that are involved in such vehicle maintenance activities are considered to be associated with industrial activity and are covered under the storm water regulations.

Facilities classified as 4493 that are not involved in equipment cleaning or vessel maintenance activities (including vehicle rehabilitation, mechanical repairs, painting, and lubrication) are not intended to be covered under 40 CFR Section 122.26(b)(14)(viii) of the storm water permit application regulations. The retail sale of fuel alone at marinas, without any other vessel maintenance or equipment cleaning operations, is not considered to be grounds for coverage under the storm water regulations.

TABLE Q–2.—STATISTICS FOR CONVENTIONAL POLLUTANTS AND STORM WATER[1] (IN mg/L UNLESS OTHERWISE INDICATED)

Pollutant Sample type	No. of Facilities		No. of Samples		Mean		Minimum		Maximum		Median		90th Percentile		95th Percentile	
	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	15	14	15	14	8.6	6.0	0.0	0.0	89.0	11.0	7.0	5.0	56.3	13.4	76.3	18.7
COD	15	14	15	14	130.9	75.8	0.0	10.0	800.0	205.0	93.0	50.5	588	254.8	1327.6	496.5
Nitrate + Nitrite Nitrogen	15	14	15	14	4.23	0.66	0.00	0.00	54.00	1.61	0.60	0.45	8.01	1.89	23.9	3.07
Total Kjeldahl Nitrogen	15	14	15	14	2.64	9.41	0.00	0.00	16.00	118.00	1.60	0.75	3.72	16.96	20.67	51.31
Oil & Grease	15	N/A	15	N/A	11.9	N/A	0.0	N/A	95.0	N/A	2.0	N/A	40.9	N/A	109.9	N/A
pH (s.u)	15	11	15	N/A	N/A	N/A	4.1	N/A	8.8	N/A	7.0	N/A	8.5	N/A	10.8	N/A
Total Phosphorus	15	14	15	14	0.27	0.15	0.00	0.00	1.20	0.32	0.10	0.17	1.32	0.51	3.19	.90
Total Suspended Solids	15	14	15	14	934	924	8	5	4330	944	135	60	2000	1116	1635.2	3351
Aluminum	4	3	4	3	3.1	2.2	0.2	0.2	8.3	5.4	3.0	1.0	24.4	14.2	81.2	40.9
Iron	4	3	4	3	28.7	8.0	0.2	0.4	54.0	8.9	8.3	5.7	N/A	40.6	40.9	122.8
Lead	4	3	4	3	0.2	0.1	0.0	0.0	0.7	0.1	0.1	0.1	N/A	.1	N/A	0.2
Zinc	4	3	4	3	0.7	0.4	0.1	0.2	2.2	0.9	0.2	0.2	N/A	1.3	N/A	2.4

[1] Mean, Maximum, Minimum, Median, and Percentiles include all detects and nondetects.
[2] Composite samples.
Note: There is no information for 95th percentile columns.

3. Options for Controlling Pollutants

The measures commonly implemented to reduce pollutants in storm water associated with water transportation vehicle maintenance and/or equipment cleaning operations are generally simple to implement and are uncomplicated practices. Table Q–3 identifies Best Management Practices (BMPs) associated with different activities that routinely take place at water transportation facilities with vehicle maintenance and equipment cleaning operations.

TABLE Q–3.—INDUSTRIAL ACTIVITIES AND POTENTIAL BEST MANAGEMENT PRACTICES

Activity	BMPs
Pressure washing	Collect discharge water and remove all visible solids before discharging to a sewer system, or where permitted, to a drainage system, or receiving water.
	Perform pressure washing only in designated areas where wash water containment can be effectively achieved.
	Use no detergents or additives in the pressure wash water.
	Direct deck drainage to a collection system sump for settling and/or additional treatment.
	Implement diagonal trenches or berms and sumps to contain and collect wash water at marine railways.
	Use solid decking, gutters, and sumps at lift platforms to contain and collect wash water for possible reuse.
Surface preparation, sanding, and paint removal.	Enclose, cover, or contain blasting and sanding activities to the extent practical to prevent abrasives, dust, and paint chips from reaching storm sewers or receiving water.
	Where feasible, cover drains, trenches, and drainage channels to prevent entry of blasting debris to the system.
	Prohibit uncontained blasting or sanding activities performed over open water.
	Prohibit blasting or sanding activities performed during windy conditions which render containment ineffective.
	Inspect and clean sediment traps to ensure the interception and retention of solids prior to entering the drainage system.
	Sweep accessible areas of the drydock to remove debris and spent sandblasting material prior to flooding.
	Collect spent abrasives routinely and store under a cover to await proper disposal.
Painting	Enclose, cover, or contain painting activities to the maximum extent practical to prevent overspray from reaching the receiving water.
	Prohibit uncontained spray painting activities over open water.
	Prohibit spray painting activities during windy conditions which render containment ineffective.
	Mix paints and solvents in designated areas away from drains, ditches, piers, and surface waters, preferably indoors or under cover.
	Have absorbent and other cleanup items readily available for immediate cleanup of spills.
	Allow empty paint cans to dry before disposal.
	Keep paint and paint thinner away from traffic areas to avoid spills.
	Recycle paint, paint thinner, and solvents.
	Train employees on proper painting and spraying techniques, and use effective spray equipment that delivers more paint to the target and less overspray.
Drydock maintenance	Clean and maintain drydock on a regular basis to minimize the potential for pollutants in the storm water runoff.
	Sweep accessible areas of the drydock to remove debris and spent sandblasting material prior to flooding.
	If hosing must be used as a removal method, collect wash water to remove solids and potential metals.
	Clean the remaining areas of the dock after a vessel has been removed and the dock raised.
	Remove and properly dispose of floatable and other low-density waste (wood, plastic, insulations, etc.).
Drydocking	Use plastic barriers beneath the hull, between the hull and drydock walls for containment.
	Use plastic barriers hung from the flying bridge of the drydock, from the bow or stern of the vessel, or from temporary structures for containment.

TABLE Q–3.—INDUSTRIAL ACTIVITIES AND POTENTIAL BEST MANAGEMENT PRACTICES—Continued

Activity	BMPs
	Weight the bottom edge of the containment tarpaulins or plastic sheeting during a light breeze.
	Use plywood and/or plastic sheeting to cover open areas between decks when sandblasting (scuppers, railings, freeing ports, ladders, and doorways).
	Install tie rings or cleats, cable suspension systems, or scaffolding to make implementation containment easier.
Nondrydock containment	Hang tarpaulin from the boat, fixed, or floating platforms to reduce pollutants transported by wind.
	Pave or tarp surfaces under marine railways.
	Clean railways before the incoming tide.
	Haul vessels beyond the high tide zone before work commences or halt work during high tide.
	Place plastic sheeting or tarpaulin underneath boats to contain and collect waste and spent materials and clean and sweep regularly to remove debris.
	Use fixed or floating platforms with appropriate plastic or tarpaulin barriers as work surfaces and for containment when work is performed on a vessel in the water to prevent blast material or paint overspray from contacting storm water or the receiving water.
	Sweep, rather than hose, debris present on the dock.
Engine maintenance and repairs	Maintain an organized inventory of materials used in the maintenance shop.
	Dispose of greasy rag, oil filters, air filters, batteries, spent coolant, and degreasers properly.
	Label and track the recycling of waste material (i.e., used oil, spent solvents, batteries).
	Drain oil filters before disposal or recycling.
	Store cracked batteries in a nonleaking secondary container.
	Promptly transfer used fluids to the proper container; do not leave full drip pans or other open containers around the shop. Empty and clean drip pans and containers.
	Do not pour liquid waste down floor drains, sinks, or outdoor storm drain inlets.
	Plug floor drains that are connected to the storm or sanitary sewer; if necessary, install a sump that is pumped regularly.
	Inspect the maintenance area regularly for proper implementation of control measures.
	Train employees on proper waste control and disposal procedures.
Material Handling: Bulk liquid storage and containment.	Store permanent tanks in a paved area surrounded by a dike system which provides sufficient containment for the larger of either 10 percent of the volume of all containers or 110 percent of the volume of the largest tank.
	Maintain good integrity of all storage tanks.
	Inspect storage tanks to detect potential leaks and perform preventive maintenance.
	Inspect piping systems (pipes, pumps, flanges, couplings, hoses, valves) for failures or leaks.
	Train employees on proper filling and transfer procedures.
Material Handling: Containerized material storage.	Store containerized materials (fuels, paints, solvents, etc.) in a protected, secure location and away from drains.
	Store reactive, ignitable, or flammable liquids in compliance with the local fire code.
	Identify potentially hazardous materials, their characteristics, and use.
	Control excessive purchasing, storage, and handling of potentially hazardous materials.
	Keep records to identify quantity, receipt date, service life, users, and disposal routes.
	Secure and carefully monitor hazardous materials to prevent theft, vandalism, and misuse of materials.
	Educate personnel for proper storage, use, cleanup, and disposal of materials.
	Provide sufficient containment for outdoor storage areas for the larger of either 10 percent of the volume of all containers or 110 percent of the volume of the largest tank.
	Use temporary containment where required by portable drip pans.
	Use spill troughs for drums with taps.
Material Handling	Mix paints and solvents in designated areas away from drains, ditches, piers, and surface waters. Locate designated areas preferably indoors or under a shed.
Designated material mixing areas	If spills occur,
	• Stop the source of the spill immediately.
	• Contain the liquid until cleanup is complete.
	• Deploy oil containment booms if the spill may reach the water.
	• Cover the spill with absorbent material.
	• Keep the area well ventilated.
	• Dispose of cleanup materials properly.
	• Do not use emulsifier or dispersant.
Shipboard process water handling	Keep process and cooling water used aboard ships separate from sanitary wastes to minimize disposal costs for the sanitary wastes.
	Keep process and cooling water from contact with spent abrasives and paint to avoid discharging these pollutants.
	Inspect connecting hoses for leaks.
Shipboard sanitary waste disposal	Discharge sanitary wastes from the ship being repaired to the yard's sanitary system or dispose of by a commercial waste disposal company.
	Use appropriate material transfer procedures, including spill prevention and containment activities.
Bilge and Ballast water	Collect and dispose of bilge and ballast waters which contain oils, solvents, detergents, or other additives to a licensed waste disposal company.

Sources: University of South Alabama, College of Engineering. September 1992. "Best Management Practices for the Shipbuilding and Repair Industry and for Bridge Maintenance Activities." College of Engineering Report No. 92–2.

NPDES Storm Water Group Applications—Part 1. Received by EPA March 18, 1991 through December 31, 1992.
EPA, Office of Water. January 1993. "Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters." 840–B–92–002.

4. Pollutant Control Measures Required Through Other EPA Programs

EPA recognizes that the Resource Conservation and Recovery Act (RCRA) and the Underground Storage Tank (UST) programs require careful management of materials used at Water Transportation Facilities and Boat Building & Repairing Facilities.

Under the RCRA program, on September 10, 1992, EPA promulgated standards in 40 CFR Part 279 for the management of used oils that are recycled (57 FR 41566). These standards include requirements for used oil generators, transporters, processors/re-refiners, and burners. The standards for used oil generators apply to all generators, regardless of the amount of used oil they generate. Do-it-yourself (DIY) generators which generate used oil from the maintenance of their personal vehicles, however, are not subject to the management standards (Section 279.20(a)(1)).

The requirements for used oil generators were designed to impose a minimal burden on generators while protecting human health and the environment from the risks associated with managing used oil. Under Subpart C of 40 CFR Part 279, used oil generators must not store used oil in units other than tanks, containers, or units subject to regulation under Part 264 or 265 of 40 CFR (Section 279.22(a)). In other words, generators may store used oil in tanks or containers that are not subject to Subpart J (Hazardous Waste Tanks) or Subpart I (Containers) of Parts 264/265, as long as such tanks or containers are maintained in compliance with the used oil management standards. This does not preclude generators from storing used oil in Subpart J tanks or Subpart I containers or other units, such as surface impoundments (Subpart K), that are subject to regulation under Part 264 or 265.

Storage units at generator facilities must be maintained in good condition and labeled with the words "used oil." Upon detection of a release of used oil to the environment, a generator must take steps to stop the release, contain the released used oil, and properly manage the released used oil and other materials (Section 279.22(b) to (d)). Generators storing used oil in underground storage tanks are subject to the UST regulations (40 CFR Part 280).

If used oil generators ship used oil offsite for recycling, they must use a transporter who has notified EPA and obtained an EPA identification number (Section 279.24).

The technical standards for USTs at 40 CFR Part 280 require that new UST systems (defined as systems for which installation commenced after December 12, 1988) use overfill prevention equipment that will: (1) Automatically shut off flow into the tank when the tank is no more than 95 percent full; or (2) alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high level alarm. The preceding requirements do no apply to systems that are filled by transfers of no more than 25 gallons at one time. Existing UST systems (defined as systems for which installation has commenced on or before December 12, 1988) are required to have installed the described overfill prevention equipment by December 12, 1998.

5. Special Conditions

a. Prohibition of Non-storm Water Discharges. In addition to the non-storm water discharges prohibited in part III.A of the permit, this section specifically prohibits the following: bilge and ballast water, pressure wash water, sanitary wastes, and cooling water originating from vessels are not authorized by this section. The operators of such discharges must obtain coverage under a separate NPDES permit if discharged to waters of the U.S. or through a municipal separate storm sewer system. Certain non-storm water discharges, however, may be authorized by this permit. Part III.A.2 of today's permit lists these discharges.

This section does not authorize the non-storm water discharge of pressure wash water. Pressure washing is used to remove marine growth from vessels. EPA has found that unpermitted releases of pressure wash water is a habitual problem at water transportation facilities. Marine growths and paint debris found in the wash water can contain significant quantities of heavy metals, and this water cannot be discharged.

6. Storm Water Pollution Prevention Plan Requirements

The conditions that apply to water transportation facilities with vehicle maintenance and/or equipment cleaning operations build upon the requirements set forth in the baseline conditions permit for storm water discharges from industrial activities discussed previously.

a. Contents of the Plan.

(1) Description of Potential Pollutant Sources.

Under the description of potential pollutant sources in the storm water pollution prevention plan requirements, permittees are required to include the location(s) on their facility site map where engine maintenance and repair work, vessel maintenance and repair work, and pressure washing are performed. This requirement is the same as the permit conditions listed in the front section of this factsheet, which are based on the baseline general permit of September 9, 1992 Here it is expressed in more appropriate terms for the water transportation industry. The baseline general permit includes "vehicle and equipment maintenance and/or cleaning areas." The language "processing areas", as described under the baseline general permit, has been specified to include painting, blasting, welding, and metal fabrication for this section. EPA believes that this specificity is appropriate for the water transportation industry and that these areas may potentially be a significant source of pollutants to storm water. Rather than requiring the location of "storage areas" as in the baseline general permit, this storm water pollution prevention plan specifies that the location of liquid storage areas (i.e., paint, solvents, resins) and material storage areas (i.e., blasting media, aluminum, steel) be shown. This again is the same requirement, but it is expressed in more specific terms for this industry. In addition, the site map must also indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls (e.g. storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

(2) Measures and Controls.

Under the description of measures and controls in the storm water pollution prevention plan requirements, this section requires that all areas that may contribute pollutants to storm waters discharges shall be maintained in a clean, orderly manner. This section also requires that the following areas must be specifically addressed:

(a) Pressure Washing Area—When pressure washing is used to remove

marine growth from vessels, the discharge water must be permitted by an NPDES permit. The plan must describe the measures to collect or contain the discharge from the pressure washing area, detail the method for the removal of the visible solids, describe the method of disposal of the collected solids, and identify where the discharge will be released (i.e., the receiving waterbody, storm sewer system, sanitary sewer system).

(b) Blasting and Painting Areas—The facility must consider containing all blasting and painting activities to prevent abrasives, paint chips, and overspray from reaching the receiving water or the storm sewer system. The plan must describe measures taken at the facility to prevent or minimize the discharge of spent abrasive, paint chips, and paint into the receiving waterbody and storm sewer system. The facility may consider hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris. Where required, a schedule for cleaning storm systems to remove deposits of abrasive blasting debris and paint chips should be addressed within the plan. The plan should include any standard operating practices with regard to blasting and painting activities. Such included items may be the prohibition of performing uncontained blasting and painting over open water or blasting and painting during windy conditions which can render containment ineffective.

(3) Material Storage Areas—All stored and containerized materials (fuels, paints, solvents, waste oil, antifreeze, batteries) must be stored in a protected, secure location away from drains and plainly labeled. The plan must describe measures that prevent or minimize contamination of the storm water runoff from such storage areas. The facility must specify which materials are stored indoors and consider containment or enclosure for materials that are stored outdoors. Above ground storage tanks, drums, and barrels permanently stored outside must be delineated on the site map with a description of the containment measures in place to prevent leaks and spills. The facility must consider implementing an inventory control plan to prevent excessive purchasing, storage, and handling of potentially hazardous materials. Those facilities where abrasive blasting is performed must specifically include a discussion on the storage and disposal of spent abrasive materials generated at the facility.

(d) Engine Maintenance and Repair Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for engine maintenance and repair. The facility may consider performing all maintenance activities indoors, maintaining an organized inventory of materials used in the shop, draining all parts of fluids prior to disposal, prohibiting the practice of hosing down the shop floor, using dry cleanup methods, and/or collecting the storm water runoff from the maintenance area and providing treatment or recycling.

(e) Material Handling Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from material handling operations and areas (i.e., fueling, paint & solvent mixing, disposal of process wastewater streams from vessels). The facility may consider covering fueling areas; using spill and overflow protection; mixing paints and solvents in a designated area, preferably indoors or under a shed; and minimizing runon of storm water to material handling areas. Where applicable, the plan must address the replacement or repair of leaking connections, valves, pipes, hoses, and soil chutes carrying wastewater from vessels.

(f) Drydock Activities—The plan must address the routine maintenance and cleaning of the drydock to minimize the potential for pollutants in the storm water runoff. The plan must describe the procedures for cleaning the accessible areas of the drydock prior to flooding and final cleanup after the vessel is removed and the dock is raised. Cleanup procedures for oil, grease, or fuel spills occurring on the drydock must also be included within the plan. The facility should consider items such as sweeping rather than hosing off debris and spent blasting material from the accessible areas of the drydock prior to flooding and having absorbent materials and oil containment booms readily available to contain and cleanup any spills.

(g) General Yard Area—The plan must include a schedule for routine yard maintenance and cleanup. Scrap metal, wood, plastic, miscellaneous trash, paper, glass, industrial scrap, insulation, welding rods, packaging, etc., must be routinely removed from the general yard area. The facility may consider such measures as providing covered trash receptacles in each yard, on each pier, and on board each vessel being repaired.

These seven areas are the common sources of pollutants in storm water runoff from water transportation facilities which have vehicle maintenance and/or equipment cleaning activities. Based upon the September 1992 "Best Management Practices for the Shipbuilding and Repair Industry and for Bridge Maintenance Activities" prepared by the College of Engineering at the University of South Alabama, the suggested management measures are commonly used at water transportation facilities. EPA believes that the incorporation of management practices such as those suggested will substantially reduce the potential that these activities and areas will significantly contribute to the pollution of storm water discharges. In addition, EPA believes that these requirements continue to provide the necessary flexibility to address the variable risk for pollutants in storm water discharges associated with different facilities. Further, many facilities will find that management measures that they have already incorporated into the facility's operation, such as the installation of overfill protection equipment and labelling and maintenance of used oil storage units, that are already required under existing EPA programs will meet the requirements of this section.

Under the preventive maintenance requirements of the storm water pollution prevention plan elements, the plan specifically includes the routine inspection of sediment traps to ensure that spent abrasives, paint chips, and solids will be intercepted and retained prior to entering the storm drainage system. Because of the nature of operations such as abrasive blasting which occur at water transportation facilities, specific routine attention needs to be placed on the collection and proper disposal of spent abrasive materials, paint chips, and other solids.

Under the inspection requirements of the storm water pollution prevention plan elements, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility, at a minimum, on a monthly basis. The following areas shall be included in all inspections: pressure washing area, blasting and painting areas, material storage areas, engine maintenance and repair areas, material handling areas, drydock area, and general yard area. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records shall be maintained.

The purpose of the inspections is to check on the implementation of the storm water pollution prevention plan. The inspections allow facility personnel to monitor the success or failure of elements of the plan on a regular basis. The use of an inspection checklist is highly encouraged. The checklist will ensure that all required areas are

inspected, as well as help to meet the record keeping requirements.

Under the employee training component of the storm water pollution prevention plan requirements, the permittee is required to identify at least annual (once per year) dates for such training. Employee training must, at a minimum address the following areas when applicable to a facility: used oil management; spent solvent management; proper disposal of spent abrasives; proper disposal of vessel wastewaters, spill prevention and control; fueling procedures; general good housekeeping practices; proper painting and blasting procedures; and used battery management. Employees, independent contractors, and customers must be informed about BMPs and be required to perform in accordance with these practices. The facility must consider posting easy to read descriptions or graphic depictions of BMPs and emergency phone numbers in the work areas. Unlike some industrial operations, the industrial activities associated with water transportation facilities that may affect storm water quality require the cooperation of all employees. EPA, therefore, is requiring that employee training take place at least once a year to serve as: (1) Training for new employees; (2) a refresher course for existing employees; (3) training for all employees on any storm water pollution prevention techniques recently incorporated into the plan; and (4) a forum for the facility to invite independent contractors and customers to inform them on pollution prevention procedures and requirements.

Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. Under the revised methodology for determining pollutants of concern for the various industrial sectors water transportation facilities must perform analytical monitoring. Facilities must collect and analyze samples of their storm water discharges for the pollutants listed in Table Q–4. The median levels of the pollutants listed in Table Q–4 were found to be above benchmark levels for water transportation facilities that submitted quantitative data in the group application process. EPA is requiring monitoring after the pollution prevention plan has been implemented to ensure that a reduction of pollutants is realized.

At a minimum, storm water discharges from water transportation facilities must be monitored quarterly during the second year of permit coverage. Samples must be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Table Q–4. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE Q–4.—INDUSTRY MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Recoverable Aluminum	0.75 mg/L.
Total Recoverable Iron	1.0 mg/L.
Total Recoverable Lead	0.0816 mg/L.
Total Recoverable Zinc	0.065 mg/L.

If the average concentration for a parameter is less than or equal to the value listed in Table Q–4, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Table Q–4, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. The schedule of monitoring is presented in Table Q–5.

TABLE Q–5.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table Q–5, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table Q–5, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table Q–5. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined

that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall, on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph *c* below under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity, that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*c*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report Form must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum requirements an additional Discharge Monitoring Report Form must be filed for each analysis. The permittee must include a measurement or estimate of the total precipitation, volume of runoff, and peak flow rate of runoff for each storm event sampled.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable. a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

f. Quarterly Visual Examination of Storm Water Quality. Quarterly visual examinations of storm water discharges from each outfall are required at water transportation facilities. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each of the designated periods during daylight unless there is insufficient rainfall or snow-melt to runoff. Where practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 60 minutes) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan. The visual examination must be conducted in each of the following periods: January through March; April through June; July through September; and October through December.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain such documentation on-site with the results of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful

results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

R. Storm Water Discharges Associated With Industrial Activity From Ship and Boat Building or Repairing Yards

1. Discharges Covered Under This Section

The storm water application regulations define storm water discharges associated with industrial activity at 40 CFR 122.26(b)(14). Category (ii) of this definition includes facilities commonly identified by Standard Industrial Classification (SIC) codes 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, and 373. The conditions in this section apply to those facilities primarily engaged in ship and boat building and repairing services (SIC code 373). The following is a list of the types of facilities engaged in ship and boat building and repairing services:

a. Ship Building and Repairing (SIC code 3731)—These are establishments primarily engaged in building and repairing ships, barges, and lighters, whether self-propelled or towed by other crafts. The industry also includes the conversion and alteration of ships and the manufacture of off-shore oil and gas well drilling and production platforms (whether or not self-propelled). Examples include building and repairing of barges, cargo vessels, combat ships, crew boats, dredges, ferryboats, fishing vessels, lighthouse tenders, naval ships, offshore supply boats, passenger-cargo vessels, patrol boats, sailing vessels, towboats, trawlers, and tugboats.

b. Boat Building and Repairing (SIC code 3732)—These facilities are primarily engaged in building and repairing boats. Examples include building and repairing of fiberglass boats, motor-boats, sailboats, rowboats, canoes, dinghies, dories, small fishing boats, houseboats, kayaks, lifeboats, pontoons, and skiffs.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Pollutants Found in Storm Water Discharges

Special conditions have been developed for boat and ship building and repairing operations. Common activities at ship and boat yards include: vessel and equipment cleaning fluid changes, mechanical repairs, parts cleaning, sanding, blasting, welding, refinishing, painting, fueling, and storage of the related materials and waste materials, such as oil, fuel, batteries, or oil filters. All of these areas are potential sources of pollutants to storm water discharges. Table R–1 lists pollutants associated with activities that commonly take place at Ship Building and Repairing Facilities (SIC 3731) and Boat Building and Repairing Facilities (SIC 3732).

TABLE R–1.—COMMON POLLUTANT SOURCES AT SHIP AND BOAT BUILDING AND REPAIRING FACILITIES

Activity	Pollutant source	Pollutant
Pressure Washing	Wash water	Paint solids, heavy metals, suspended solids.
Surface Preparation, Paint Removal, Sanding	Sanding; mechanical grinding; abrasive blasting; paint stripping.	Spent abrasives, paint solids, heavy metals, solvents, dust.
Painting	Paint and paint thinner spills; spray painting; paint stripping; sanding; paint cleanup.	Paint solids, spent solvents, heavy metals, dust.
Engine Maintenance and Repairs	Parts cleaning; waste disposal of greasy rags, used fluids, and batteries; use of cleaners and degreasers; fluid spills; fluid replacement.	Spent solvents, oil, heavy metals, ethylene glycol, acid/alkaline wastes, detergents.
Material Handling: Transfer Storage Disposal	Fueling: spills; leaks; and hosing area	Fuel, oil, heavy metals.
	Liquid Storage in Above Ground Storage: spills and overfills; external corrosion; failure of piping systems.	Fuel, oil, heavy metals, material being stored.
	Waste Material Storage and Disposal: paint solids; solvents; trash; spent abrasives, petroleum products.	Paint solids, heavy metals, spent solvents, oil.
Shipboard Processes improperly discharged to storm sewer or into receiving water.	Process and cooling water; sanitary waste; bilge and ballast water.	Biochemical oxygen demand (BOD), bacteria, suspended solids, oil, fuel.

Sources: Executive Office of the President, Office of Management and Budget, 1987. Standard Industrial Classification Manual 1987. National Technical Information Service Order no. PB 87–100012.

NPDES Storm Water Group Applications—Part 1 and Part 2. Received by EPA March 18, 1991 through December 31, 1992.

EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention the Automotive Refinishing Industry." EPA/625/7–91/016.

EPA, Office of Research and Development. October 1991. "Guides to Pollution Prevention the Automotive Repair Industry." EPA/625/7–91/016.

EPA, Office of Research and Development. May 1992. "Facility Pollution Prevention Guide." EPA/600/R–92/088.

EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities—Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.

EPA, Office of Water and Hazardous Materials. December 1979. "Draft Development Document for Proposed Effluent Limitations Guidelines and Standards for the Shipbuilding and Repair Industry." EPA/440/1–79/076-b.

University of South Alabama, College of Engineering. September 1992. "Best Management Practices for the Shipbuilding and Repair Industry and for Bridge Maintenance Activities." College of Engineering Report No. 92–2.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at ship and boat building and repairing facilities as a whole and not subdivide this sector. Therefore, Table R–2 lists data for selected parameters from facilities in the ship and boat building and repairing sector. These data include the eight pollutants that all facilities were required to monitor for under Form 2F, as well as the pollutants that EPA determined may merit further monitoring.

TABLE R–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY SHIP AND BOAT BUILDING OR REPAIRING YARDS SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Effluent Sample Type	No. of Facilities		No. of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	29	28	51	48	4.4	6.3	0.0	0.0	23.0	138.0	2.3	0.0	17.1	25.5	32.6	67.4
COD	29	28	51	49	73.2	70.0	0.0	0.0	450.0	810.0	53.0	53.0	259.1	264.3	503.9	579.8
Nitrate + Nitrite Nitrogen	29	28	51	49	0.78	0.82	0.00	0.00	6.00	5.00	0.72	0.71	2.36	2.35	4.28	4.22
Total Kjeldahl Nitrogen	29	28	51	49	1.19	2.20	0.00	0.00	3.40	48.00	1.00	0.97	2.57	4.69	3.73	8.67
Oil & Grease	29	N/A	52	N/A	1.0	N/A	0.0	N/A	14.0	N/A	0.0	N/A	5.1	N/A	15.9	N/A
pH	23	N/A	43	N/A	N/A	N/A	4.7	N/A	8.7	N/A	7.3	N/A	8.8	N/A	9.6	N/A
Total Phosphorus	29	28	51	48	0.21	0.86	0.00	0.00	2.20	32.00	0.00	0.06	0.94	1.75	1.98	4.51
Total Suspended Solids	29	27	51	48	92	45	0	0	1200	300	17	10	525	366	2294	1537

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

3. Options for Controlling Pollutants

The measures commonly implemented to reduce pollutants in storm water discharges from boat and ship building and repairing facilities are generally uncomplicated and simple to implement. Table R–3 identifies Best Management Practices (BMPs) associated with various activities that routinely occur at boat and ship building and repair facilities.

TABLE R–3.—COMMON MANAGEMENT PRACTICES FOR STORM WATER POLLUTION PREVENTION AT SHIP AND BOAT BUILDING AND REPAIRING FACILITIES

Activity	BMPs
Pressure washing	Collect discharge water and remove all visible solids before discharging to a sewer system, or where permitted by an individual NPDES permit, to a drainage system, or receiving water.
	Perform pressure washing only in designated areas where wash water containment can be effectively achieved.
	Use no detergents or additives in the pressure wash water.
	Direct deck drainage to a collection system sump for settling and/or additional treatment.
	Implement diagonal trenches or berms and sumps to contain and collect wash water at marine railways.
	Use solid decking, gutters, and sumps at lift platforms to contain and collect wash water for possible reuse.
Surface preparation, sanding, and paint removal.	Enclose, cover, or contain blasting and sanding activities to the maximum extent practical to prevent abrasives, dust, and paint chips from reaching storm sewers or receiving water.
	Where feasible, cover drains, trenches, and drainage channels to prevent entry of blasting debris to the system.
	Prohibit uncontained blasting or sanding activities over open water.
	Prohibit blasting or sanding activities during windy conditions which render containment ineffective.
	Inspect and clean sediment traps to ensure the interception and retention of solids prior to entering the drainage system.
	Sweep accessible areas of the drydock to remove debris and spent sandblasting material prior to flooding.
	Collect spent abrasives routinely and store under a cover to await proper disposal.
Painting	Enclose, cover, or contain painting activities to the maximum extent practical to prevent overspray from reaching the receiving water.
	Prohibit uncontained spray painting activities over open water.
	Prohibit spray painting activities during windy conditions which render containment ineffective.
	Mix paints and solvents in designated areas away from drains, ditches, piers, and surface waters, preferably indoors or under a shed.
	Have absorbent and other cleanup items readily available for immediate cleanup of spills.
	Allow empty paint cans to dry before disposal.
	Keep paint and paint thinner away from traffic areas to avoid spills.
	Recycle paint, paint thinner, and solvents.
	Train employees on proper painting and spraying techniques, and use effective spray equipment that delivers more paint to the target and less overspray.
Drydock maintenance	Clean and maintain drydock on a regular basis to minimize the potential for pollutants in the storm water runoff.
	Sweep accessible areas of the drydock to remove debris and spent sandblasting material prior to flooding.

TABLE R–3.—COMMON MANAGEMENT PRACTICES FOR STORM WATER POLLUTION PREVENTION AT SHIP AND BOAT BUILDING AND REPAIRING FACILITIES—Continued

Activity	BMPs
	If hosing must be used as a removal method, collect wash water to remove solids and potential metals.
	Clean the remaining areas of the dock after a vessel has been removed and the dock raised.
	Remove and properly dispose of floatable and other low-density waste (wood, plastic, insulations, etc.).
Drydock activities	Use plastic barriers beneath the hull, between the hull and drydock walls for containment.
	Use plastic barriers hung from the flying bridge of the drydock, from the bow or stern of the vessel, or from temporary structures for containment.
	Weight the bottom edge of the containment tarpaulins or plastic sheeting during a light breeze.
	Use plywood and/or plastic sheeting to cover open areas between decks when sandblasting (scuppers, railings, freeing ports, ladders, and doorways).
	Install tie rings or cleats, cable suspension systems, or scaffolding to make implementation containment easier.
Nondrydock activities.	Hang tarpaulin from the boat, fixed, or floating platforms to reduce pollutants transported by wind.
	Pave or tarp surfaces under marine railways.
	Clean railways before the incoming tide.
	Haul vessels beyond the high tide zone before work commences or halt work during high tide.
	Place plastic sheeting or tarpaulin underneath boats to contain and collect waste and spent materials and clean and sweep regularly to remove debris.
	Use fixed or floating platforms with appropriate plastic or tarpaulin barriers as work surfaces and for containment when work is performed on a vessel in the water to prevent blast material or paint overspray from contacting storm water or the receiving water.
	Sweep rather than hose debris present on the dock.
Engine maintenance and repairs	Maintain an organized inventory of materials used in the maintenance shop.
	Dispose of greasy rag, oil filters, air filters, batteries, spent coolant, and degreasers properly.
	Label and track the recycling of waste material (i.e., used oil, spent solvents, batteries).
	Drain oil filters before disposal or recycling.
	Store cracked batteries in a nonleaking secondary container.
	Promptly transfer used fluids to the proper container; do not leave full drip pans or other open containers around the shop. Empty and clean drip pans and containers.
	Do not pour liquid waste down floor drains, sinks, or outdoor storm drain inlets.
	Plug floor drains that are connected to the storm or sanitary sewer; if necessary, install a sump that is pumped regularly.
	Inspect the maintenance area regularly for proper implementation of control measures.
	Train employees on proper waste control and disposal procedures.
Material Handling	Store permanent tanks in a paved area surrounded by a dike system which provides sufficient containment for the larger of either 10 percent of the volume of all containers or 110 percent of the volume of the largest tank.
Bulk liquid storage and containment	Maintain good integrity of all storage tanks.
	Inspect storage tanks to detect potential leaks and perform preventive maintenance.
	Inspect piping systems (pipes, pumps, flanges, couplings, hoses, valves) for failures or leaks.
	Train employees on proper filling and transfer procedures.
Material Handling	Store containerized materials (fuels, paints, solvents, etc.) in a protected, secure location and away from drains.
Containerized material storage	Store reactive, ignitable, or flammable liquids in compliance with the local fire code.
	Identify potentially hazardous materials, their characteristics, and use.
	Control excessive purchasing, storage, and handling of potentially hazardous materials.
	Keep records to identify quantity, receipt date, service life, users, and disposal routes.
	Secure and carefully monitor hazardous materials to prevent theft, vandalism, and misuse of materials.
	Educate personnel for proper storage, use, cleanup, and disposal of materials.
	Provide sufficient containment for outdoor storage areas for the larger of either 10 percent of the volume of all containers or 110 percent of the volume of the largest tank.
	Use temporary containment where required by portable drip pans.
	Use spill troughs for drums with taps.
Material Handling	Mix paints and solvents in designated areas away from drains, ditches, piers, and surface waters. Locate designated areas preferably indoors or under a shed.
Designated material mixing areas	If spills occur,
	Stop the source of the spill immediately.
	Contain the liquid until cleanup is complete.
	Deploy oil containment booms if the spill may reach the water.
	Cover the spill with absorbent material.
	Keep the area well ventilated.
	Dispose of cleanup materials properly.
	Do not use emulsifier or dispersant.
Shipboard process water handling	Keep process and cooling water used aboard ships separate from sanitary wastes to minimize disposal costs for the sanitary wastes.
	Keep process and cooling water from contact with spent abrasives and paint to avoid pollution of the receiving water.
	Inspect connecting hoses for leaks.

TABLE R–3.—COMMON MANAGEMENT PRACTICES FOR STORM WATER POLLUTION PREVENTION AT SHIP AND BOAT BUILDING AND REPAIRING FACILITIES—Continued

Activity	BMPs
Shipboard sanitary waste disposal	Discharge sanitary wastes from the ship being repaired to the yard's sanitary system or dispose of by a commercial waste disposal company. Use appropriate material transfer procedures, including spill prevention and containment activities.
Bilge and Ballast water	Collect and dispose of bilge and ballast waters which contain oils, solvents, detergents, or other additives to a licensed waste disposal company.

Sources: EPA, Office of Water. 1993. "Guidance Specifying Management Measures for Survey of Nonpoint Pollution in Coastal Waters." 840–B–92–002.
University of South Alabama, College of Engineering. September 1992. Best Management Practices for the Shipbuilding and Repair Industry and for Bridge Maintenance Activities. College of Engineering Report No. 92–2.
NPDES Storm Water Group Applications—Part 1. Received by EPA March 18, 1991 through December 31, 1992.

4. Pollutant Control Measures Required Through Other EPA Programs

EPA recognizes that the Resource Conservation and Recovery Act (RCRA) and the Underground Storage Tank (UST) programs require careful management of materials used at Ship Building and Repairing Facilities and Boat Building and Repairing Facilities.

Under the RCRA program, on September 10, 1992, EPA promulgated standards in 40 CFR Part 279 for the management of used oils that are recycled (57 FR 41566). These standards include requirements for used oil generators, transporters, processors/re-refiners, and burners. The standards for used oil generators apply to all generators, regardless of the amount of used oil they generate. Do-it-yourself (DIY) generators which generate used oil from the maintenance of their personal vehicles, however, are not subject to the management standards (Subsection 279.20(a)(1)).

The requirements for used oil generators were designed to impose minimal burden on generators while protecting human health and the environment from the risks associated with managing used oil. Under Subpart C of 40 CFR Part 279, used oil generators must not store used oil in units other than tanks, containers, or units subject to regulation under Part 264 or 265 of 40 CFR 279.22(a). In other words, generators may store used oil in tanks or containers that are not subject to Subpart J (Hazardous Waste Tanks) or Subpart I (Containers) of Parts 264/265, as long as such tanks or containers are maintained in compliance with the used oil management standards. This does not preclude generators from storing used oil in Subpart J tanks or Subpart I containers or other units, such as surface impoundments (Subpart K), that are subject to regulation under Part 264 or 265.

Storage units at generator facilities must be maintained in good condition and labeled with the words "used oil." Upon detection of a release of used oil to the environment, a generator must take steps to stop the release, contain the released used oil, and properly manage the released used oil and other materials (Sections 279.22(b)–(d)). Generators storing used oil in underground storage tanks are subject to the UST regulations (40 CFR Part 280).

If used oil generators ship used oil offsite for recycling, they must use a transporter who has notified EPA and obtained an EPA identification number (Section 279.24).

The technical standards for USTs at 40 CFR Part 280 require that new UST systems (defined as systems for which installation commenced after December 12, 1988) use overfill prevention equipment that will: (1) Automatically shut off flow into the tank when the tank is no more than 95 percent full; or (2) alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high level alarm. The preceding requirements do no apply to systems that are filled by transfers of no more than 25 gallons at one time. Existing UST systems (defined as systems for which installation has commenced on or before December 12, 1988) are required to have installed the described overfill prevention equipment by December 12, 1998.

5. Special Conditions

a. Prohibition of Non-storm Water Discharges. In addition to the prohibitions in part III.A., this section of today's permit does not authorize prohibited non-storm water discharges of wastewaters, such as bilge and ballast water, sanitary wastes, pressure washwater, and cooling water originating from vessels. The operators of such discharges must obtain coverage under a separate NPDES permit if discharged to waters of the U.S. or through a municipal separate storm sewer system. Part III.A.2 of today's permit does, however, authorize certain non-storm water discharges.

6. Storm Water Pollution Prevention Plan Requirements

The conditions that apply to ship and boat building and repairing facilities build upon the requirements set forth in the front of this fact sheet which are based on the requirements of the September 9, 1992 baseline general permit. The discussion which follows, therefore, only addresses conditions that differ from those baseline conditions.

a. Contents of the Plan

(1) Description of Potential Pollutant Sources. Under the description of potential pollutant sources in the storm water pollution prevention plan requirements, permittees are required to include the location(s) on their facility site map where engine maintenance and repair work, vessel maintenance and repair work, and pressure washing are performed. This requirement is the same as the baseline requirements presented in the front of this fact sheet, but here it is expressed in more appropriate terms for the ship and boat industry. Rather than requiring the location of "storage areas" as in the baseline general permit, this storm water pollution prevention plan specifies that the location of liquid storage areas (i.e., paint, solvents, resins) and material storage areas (i.e., blasting media, aluminum, steel) be shown. In addition, the site map must also indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls (e.g. storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

(2) Measures and Controls. Under the description of measures and controls in the storm water pollution prevention plan requirements, this section requires

that all areas that may contribute pollutants to storm waters discharges shall be maintained in a clean and orderly manner. This section of today's permit also requires that the following areas be specifically addressed:

(a) Pressure Washing Area—When pressure washing is used to remove marine growth from vessels, the discharge water must be collected or contained and disposed of as required by the NPDES permit for this process water, if the discharge is to waters of the U.S. or through a municipal separate storm sewer. The plan must describe the measures to collect or contain the discharge from the pressure washing area, detail the method for the removal of the visible solids, describe the method of disposal of the collected solids, and identify where the discharge will be released (i.e., the receiving waterbody, storm sewer system, sanitary sewer system).

(b) Blasting and Painting Areas—The facility must consider containing all blasting and painting activities to prevent abrasives, paint chips, and overspray from reaching a receiving waterbody or storm sewer system. The plan must describe measures taken at the facility to prevent or minimize the discharge of spent abrasive, paint chips, and paint into the receiving waterbody and storm sewer system. The facility may consider hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris. Where appropriate, a schedule for cleaning storm water conveyances to remove deposits of abrasive blasting debris and paint chips should be addressed within the plan. The plan should include any standard operating practices with regard to blasting and painting activities. Such items may include the prohibition of performing uncontained blasting and painting over open water or blasting and painting during windy conditions which can render containment ineffective.

(c) Material Storage Areas—All stored and containerized materials (fuels, paints, solvents, waste oil, antifreeze, batteries) must be stored in a protected, secure location away from drains and plainly labeled. The plan must describe measures that prevent or minimize contamination of the storm water runoff from such storage areas. The facility must specify which materials are stored indoors and consider containment or cover for materials that are stored outdoors. Above ground storage tanks, drums, and barrels permanently stored outside must be delineated on the site map with a description of the containment measures in place to prevent leaks and spills. The facility must consider implementing an inventory control plan to prevent excessive purchasing, storage, and handling of potentially hazardous materials. Those facilities where abrasive blasting is performed must specifically include within the plan discussion on the storage and proper disposal of spent abrasive generated at the facility.

(d) Engine Maintenance and Repair Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for engine maintenance and repair. The facility must consider performing all maintenance activities indoors, maintaining an organized inventory of materials used in the shop, draining all parts of fluids prior to disposal, prohibiting the practice of hosing down the shop floor where the practice would result in the exposure of pollutants to storm water, using dry cleanup methods, and/or collecting the storm water runoff from the maintenance area and providing treatment or recycling.

(e) Material Handling Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from material handling operations and areas (i.e., fueling, paint and solvent mixing, disposal of process wastewater streams from vessels). The facility must consider covering fueling areas; using spill and overflow protection; mixing paints and solvents in a designated area, preferably indoors or under a shed; and minimizing runon of storm water to material handling areas. Where applicable, the plan must address the replacement or repair of leaking connections, valves, pipes, hoses, and soil chutes carrying wastewater from vessels.

(f) Drydock Activities—The plan must address the routine maintenance and cleaning of the drydock to minimize the potential for pollutants in storm water runoff. The facility must describe the procedures for cleaning the accessible areas of the drydock prior to flooding and the final cleanup after the vessel is removed and the dock is raised. Cleanup procedures for oil, grease, or fuel spills occurring on the drydock must also be included within the plan. The facility must consider items such as sweeping rather than hosing off debris and spent blasting material from the accessible areas of the drydock prior to flooding and having absorbent materials and oil containment booms readily available to contain and cleanup any spills.

(g) General Yard Area—The plan must include a schedule for routine yard maintenance and cleanup. Scrap metal, wood, plastic, miscellaneous trash, paper, glass, industrial scrap, insulation, welding rods, packaging, etc., must be routinely removed from the general yard area. The facility must consider such measures as providing covered trash receptacles in each yard, on each pier, and on board each vessel being repaired.

These seven areas are the common sources of pollutants in storm water from ship building and repairing and boat building and repairing activities. Based upon Best Management Practices for the Shipbuilding and Repair Industry and for Bridge Maintenance Activities prepared by the College of Engineering at the University of South Alabama, the suggested management measures are commonly used at ship and boat facilities. EPA believes that the incorporation of management practices such as those suggested will substantially reduce the potential for these activities and areas to contribute pollutants to storm water discharges. In addition, EPA believes that these requirements will continue to provide the necessary flexibility to address the variable risk for pollutants in storm water discharges associated with different facilities. Many facilities will find that appropriate management measures are already employed at the facility because they have been required under an existing EPA program.

The preventive maintenance requirements specifically include the routine inspection of sediment traps to ensure that spent abrasives, paint chips, and solids will be intercepted and retained prior to entering the storm drainage system. Because of the nature of operations occurring at ship and boat facilities, routine attention needs to be placed on the collection and proper disposal of spent abrasive, paint chips, and other solids.

In addition to the comprehensive site evaluation required under Part XI.R.3.a.(4) of today's permit, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility, at a minimum, on a monthly basis. The following areas shall be included in all inspections: pressure washing areas, blasting and painting areas, material storage areas, engine maintenance and repair areas, material handling areas, drydock areas, and general yard areas. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records shall be maintained.

The purpose of the inspections is to check on the implementation and effectiveness of the storm water

pollution prevention plan. The inspections allow facility personnel to monitor the success or failure of elements of the plan on a regular basis. The use of an inspection checklist is encouraged. The checklist will ensure that all required areas are inspected, as well as help to meet the record keeping requirements.

The permittee is required to identify annual (once per year) dates for employee training. Employee training must, at a minimum address the following areas when applicable to a facility: used oil management; spent solvent management; proper disposal of spent abrasives; proper disposal of vessel wastewaters, spill prevention and control; fueling procedures; general good housekeeping practices; proper painting and blasting procedures; and used battery management. Employees, independent contractors, and customers must be informed about BMPs and be required to perform in accordance with these practices. The permittee is required to consider posting easy to read or graphic depictions of BMPs that are included in the plan as well as emergency phone numbers in the work areas. This practice will enhance employees understanding the pollutant control measures. Unlike some industrial operations, the industrial activities associated with ship and boat building and repair facilities that may affect storm water quality require the cooperation of all employees. EPA, therefore, is requiring that employee training take place at least once a year to serve as: (1) Training for new employees; (2) a refresher course for existing employees; (3) training for all employees on any storm water pollution prevention techniques recently incorporated into the plan; and (4) a forum for the facility to invite independent contractors and customers to inform them of pollution prevention procedures and requirements.

7. Numeric Effluent Limitation

There are no additional numeric effluent limitations beyond those described in Part V.B. of today's permit.

8. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity." The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, nitrate plus nitrite nitrogen is above the bench mark concentrations for the ship and boat building or repair yards sector. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in this sector, EPA has determined that the higher concentrations of nitrate plus nitrite nitrogen are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require ship and boat building or repair yards facilities to conduct analytical monitoring for this parameter. Therefore, under the revised methodology for determining pollutants of concern in the various industrial sectors, no analytical monitoring is required by ship and boat building and repairing facilities.

b. Quarterly Visual Examination of Storm Water Quality. Ship and boat building or repair yard facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted under paragraph (3) below. The examination(s) must be made at least once in each of the following 3-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the

chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

S. Storm Water Discharges Associated With Industrial Activity From Vehicle Maintenance Areas, Equipment Cleaning Areas, or Deicing Areas Located at Air Transportation Facilities

1. Discharges Covered Under This Section

The conditions in this section apply to airports, airport terminals, airline carriers, and establishments engaged in servicing, repairing, or maintaining aircraft and ground vehicles, equipment cleaning and maintenance (including vehicle and equipment rehabilitation mechanical repairs, painting, fueling, lubrication) or deicing/anti-icing operations which conduct the above described activities (facilities generally classified as SIC code 45). For the purpose of this final permit, the term "deicing" is defined as the process to remove frost, snow, or ice and "anti-icing" is the process which prevents the accumulation of frost, snow, or ice. Both of these activities are covered under this permit.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

a. Responsible Parties. Airports typically operate under a single management organization known as the airport "authority" which in most cases is a public agency. Airline carriers and other fixed base operators (e.g., fueling companies and maintenance shops) that have contracts with the airport authority to conduct business on airport property are commonly referred to as "tenants" of the airport. Tenants may be of two types—those that are regulated as storm water dischargers associated with industrial activities under 40 CFR 122.26(b)(14) and those that are not. The operator and the tenants of the airport that conduct industrial activities as described above, or as described anywhere in 40 CFR 122.26(b)(14) and which have storm water discharges, are required to apply for coverage under an NPDES storm water permit for the discharges from their areas of operation. Where an airport has multiple operators (airport authority and tenants) that have storm water discharges associated with industrial activity, as described above, each operator is required to apply for coverage under an NPDES storm water permit. This may be done as separate operators or may be done as co-permittees. Regardless, each individual party, whether a co-permittee or a separate permittee, must submit a notice of intent (NOI) to be covered under today's permit. During implementation of the storm water pollution prevention plan, the airport authority should work cooperatively with tenants that are not required to have a NPDES permit for their storm water discharges. The airport authority may accomplish this through negotiated agreements, contractual requirements, or other means. Ultimately, the operator(s)/owner(s) (the airport authority) of the storm water outfalls from the airport is(are) responsible for compliance with all terms and conditions of this or other NPDES permits applicable to those outfalls. Storm water pollution prevention plans developed separately for areas of the airport facility occupied by tenants of the airport that are regulated under 40 CFR 122.26(b)(14) as a storm water discharge associated with industrial activity shall be integrated into the storm water pollution prevention plan for the entire airport facility.

The airport authority and tenants of the airport are encouraged to apply as co-permittees under today's permit, and to work in partnership in the development and implementation of a storm water pollution prevention plan.

2. Pollutants Found in Storm Water Discharges

In general, the quantitative data submitted thus far has not raised any particular areas of concern with respect to discharges of pollutants resulting from vehicle maintenance and/or deicing/anti-icing operations conducted at airport facilities. However, EPA believes that the part 2 sampling data does not provide justification that discharges resulting from deicing/anti-icing operations are not a significant source of pollutants. The sampling requirements for part 2 of the group application did not specify that facilities must sample storm water discharges from areas where deicing/anti-icing activities occur and/or during times when such operations were being conducted. As a result, only one facility indicated that the sampling data submitted was collected from areas where deicing activities were being conducted. After reviewing recent case studies on the effects of glycol discharges to receiving waters, EPA reports and the results of FAA surveys, EPA believes that additional information on the discharges of deicing/anti-icing chemicals to receiving waters as a result of aircraft and runway deicing/anti-icing operations is warranted and necessary.

Both ethylene and propylene glycols exert high oxygen demands when released into receiving waters. As such, this section requires that facilities report both the Biochemical Oxygen Demand (BOD) and Chemical Oxygen Demand (COD) of discharges sampled at facilities that use at least 100,000 gallons or more of glycol-based deicing/anti-icing chemicals. The concentration of nitrogen and possibly ammonia are the concern with respect to deicing/anti-icing operations where urea is used. Therefore, this section requires that facilities subject to the monitoring requirements in Part XI.S.5. of the permit also report the concentration of Total Kjeldahl Nitrogen (TKN) in discharges sampled.

The results of the storm water survey conducted by the FAA (June 1992) showed that 10 percent of the respondents who conduct deicing/anti-icing activities used more than 100,000 gallons of glycol-based deicing/anti-icing chemicals during winter seasons. In addition, those facilities using more than 100,000 gallons of glycol-based deicing/anti-icing chemicals accounted for 71 percent of the total amount of glycol-based deicing/anti-icing chemicals reported in the survey. In a similar survey conducted by the American Association of Airport

Executives, 4 percent of the airports conducting deicing/anti-icing activities used more than 100,000 gallons of ethylene glycol which represented approximately 76 percent of the total amount of ethylene glycol used by all airports surveyed.

3. Special Conditions

a. Prohibition of Non-storm Water Discharges. In addition to the non-storm water prohibitions described under Part III.A.2, today's permit clarifies in Part XI.S.2.a (Prohibition of Non-storm Water Discharges) that non-storm water discharges, including discharges from aircraft, ground vehicle and equipment washwaters, dry weather discharges from airport deicing/anti-icing operations, and dry weather discharges resulting from runway maintenance are not authorized under this permit. Dry weather discharges are generated from processes other than those described in the definition of storm water. The definition of storm water includes storm water runoff, snow melt runoff, and surface runoff and drainage. There is no limit on the time between the snowfall and snow melt for the purpose of including a snow melt discharge in the definition of storm water. All other discharges not included in the definition of storm water constitute non-storm water discharges. Operators of non-storm water discharges must obtain coverage under a separate NPDES wastewater permit if such discharges are a point source discharge to waters of the U.S. or are discharged through a municipal separate storm sewer system. In a related requirement, the permittee is required to attach a copy of the NPDES permit issued for the discharge of non-storm water runoff or, if an NPDES permit has not yet been issued, a copy of the pending application to the plan. For facilities that discharge the waters mentioned above to a sanitary sewer system, the operator of the sanitary sewer system must be notified. A copy of the notification letter must be attached to the plan. If an industrial user permit has been issued under a pretreatment program, a copy of the permit must be attached to the plan as does any other permit to which the facility's discharge waters are subject. This will help to prevent confusion and help to ensure that non-storm water discharges are not inadvertently authorized by this permit.

b. Releases of Reportable Quantities of Hazardous Substances and Oil. Today's permit clarifies in Part XI.S.2.b (Releases of Reportable Quantities of Hazardous Substances and Oil) that each individual permittee is required to report spills equal to or exceeding the RQ levels specified at 40 CFR 110, 117 and 302. If the airport authority is the sole permittee, then the sum total of all spills at the airport must be assessed against the RQ. If the airport authority is a co-permittee with other deicing/anti-icing operators at the airport, such as numerous different airlines, the assessed amount must be the summation of spills by each co-permittee. If separate, distinct individual permittees exist at the airport, then the amount spilled by each separate permittee must be the assessed amount for the RQ determination.

4. Storm Water Pollution Prevention Plan Requirements

a. Contents of the Plan. The pollution prevention plan requirements described below are in addition to those found under Part VI.C.

(1) Description of Potential Pollutant Sources. In addition to the common pollution prevention plan requirements discussed in Part VI.C.2.a. (Drainage), the site map developed for an entire airport shall identify the location of each tenant of the facility describe their activities.

In addition to the pollution prevention requirements discussed in Part VI.C.2. (Description of Potential Pollutant Sources), airport facilities, including areas operated by tenants of the facility that conduct industrial activities, must address the following specific operations and areas where the operations occur:

Aircraft Deicing/Anti-icing—Includes both deicing to remove frost, snow or ice, and anti-icing which prevents the accumulation of frost, snow or ice. Deicing/anti-icing of an airplane is accomplished through the application of a freezing point depressant fluid, commonly ethylene glycol or propylene glycol, to the exterior surface of an aircraft. Both ethylene and propylene glycol have high biochemical oxygen demands (BOD) when discharged to receiving waters. Environmental impacts on surface waters due to glycol discharges includes glycol odors and glycol contaminated surface water and ground water systems, diminished dissolved oxygen levels and fish kills.

The Federal Aviation Administration (FAA) recently conducted a survey which focused on aircraft and runway deicing/anti-icing operations at U.S. airports. Ninety-six airports responded to the survey and results are summarized in a final report dated June 1, 1992. In summary, 65 airports indicated the amounts of ethylene glycol used for aircraft deicing for the winter periods of 1989–90 and 1990–91 and the volumes used by each airport ranged significantly, from a few gallons to 520,000 gallons. The average annual volume of ethylene glycol used by all respondents for the winter periods of 1989–90 and 1990–91 was approximately 2.16 million gallons.

The FAA survey summary reported that the majority of aircraft deicing operations occur on the apron adjacent to the passenger terminal and runoff generally drains to a nearby storm water inlet. In fact, 31 of the respondents to the FAA survey indicated that 75 percent or more of the spent deicing chemicals were discharged to a storm sewer system. In general, the remainder of spent chemical resulting from aircraft deicing operations drained to ditches or open areas.

All aspects of aircraft deicing/anti-icing operations, including quantities used and stored, as well as application, handling and storage procedures are required to be addressed under the conditions of this section.

(b) Runway Deicing/Anti-icing—Includes both deicing and anti-icing operations conducted on runways, taxiways and ramps. Runway deicing/anti-icing commonly involves either the application of chemical fluids such as ethylene glycol or solid constituents such as pelletized urea. Urea has a high nitrogen content, therefore degradation of urea in a receiving water causes an increase in nutrient loadings resulting in an accelerated growth of algae and eutrophic conditions. Under certain ambient conditions, the degradation of urea in receiving waters can also result in ammonia concentrations toxic to aquatic life.

The FAA's storm water survey reported that, of the facilities that indicated using urea for runway deicing/anti-icing for the winter periods of 1989–90 and 1990–91, the amount of urea used during a single winter period ranged from 100 pounds to 1,450,000 pounds (715 tons). With regard to disposal of spent deicing/anti-icing chemicals from runways, taxiways and ramps, 20 airports indicated that they discharged 50 percent or more of runoff from deicing areas directly to a storm sewer system. In response to questions concerning collection and treatment of spent deicing chemicals from runway deicing/anti-icing activities, only five facilities indicated that runoff from runway deicing/anti-icing operations was collected and treated.

All aspects of runway deicing/anti-icing operations, including types of deicing/anti-icing chemicals, quantities used and stored, as well as application, handling and storage procedures are required to be addressed under the conditions of this section.

(c) Aircraft Servicing—Typically conducted on the apron area adjacent to the passenger terminal, the servicing of aircraft could potentially contribute pollutants to storm water. As a result of spills or leaks during the servicing of aircraft, fluids such as engine oil, hydraulic fluid, fuel and lavatory waste could potentially enter the storm water system and/or be discharged to receiving waters. All spillage other than potable water should be prevented from entering the storm sewer system.

(d) Aircraft, Ground Vehicle and Equipment Maintenance and Washing—Maintenance activities included in this section include both minor and major operations conducted either on the apron adjacent to the passenger terminal, or at dedicated maintenance facilities. Potential pollutant sources from all types of maintenance activities include spills and leaks of engine oils, hydraulic fluids, transmission oil, radiator fluids, and chemical solvents used for parts cleaning. In addition, the disposal of waste parts, batteries, oil and fuel filters, and oily rags also have a potential for contaminating storm water runoff from maintenance areas unless proper management practices and operating procedures are implemented. The spent wash water from aircraft and ground vehicle washing activities could potentially be contaminated with surface dirt, metals, and fluids (fuel, hydraulic fluid, oil, lavatory waste).

(e) Runway Maintenance—Over time, materials such as tire rubber, oil and grease, paint chips, and jet fuel can build up on the surface of a runway causing a reduction in the friction of the pavement surface. When the friction level of a runway falls below a specific level, then maintenance must be performed. The Federal Aviation Administration (FAA) recommends several methods for removing rubber deposits and other contaminants from a runway surface including high pressure water, chemical solvents, high velocity particle impact, and mechanical grinding. If not properly managed, the materials removed from the runway surface could be discharged into nearby surface waters. Similarly, if chemical solvents are used in the maintenance operation, improper management practices could result in discharges of the chemical solvents in the storm water runoff from runway areas to nearby surface waters.

(2) Measures and Controls. In addition to the common pollution prevention plan requirements discussed in Part VI.C.3. (Measures and Controls), this section specifies that permittees must address particular Best Management Practices (BMP) for specific areas and operations identified as potential sources of pollutants. This section further specifies that a schedule for implementation shall be provided for each BMP selected. The BMPs specified in this section are not intended to be the only alternative management practices considered by operators, simply the minimum to be considered. In most cases, the BMPs specified are common sense approaches that are already in practice at many airport facilities. As such, operators may only need to include the information in their storm water pollution prevention plan. Specific areas and industrial operations mentioned in this section and the corresponding BMPs for such areas are the following:

(a) Aircraft, Ground Vehicle and Equipment Maintenance Areas (including aircraft service areas)—The plan must describe measures that prevent or minimize the contamination of storm water runoff from all areas used for aircraft, ground vehicle and equipment maintenance and servicing. Management practices such as performing all maintenance activities indoors, maintaining an organized inventory of materials used, draining all parts of fluids prior to disposal, prohibiting the practice of hosing down the apron or hangar floor, using dry cleanup methods in the event of spills, and/or collecting the storm water runoff from maintenance and/or service areas and providing treatment, or recycling should be considered.

(b) Aircraft, Ground Vehicle, and Equipment Cleaning Areas—The plan must describe measures that prevent or minimize the contamination of the storm water runoff from all areas used for aircraft, ground vehicle, and equipment maintenance. Management practices such as performing all cleaning operations indoors, and/or collecting the storm water runoff from the area and providing treatment or recycling should be considered.

(c) Aircraft, Ground Vehicle, and Equipment Storage Areas—The storage of aircraft, ground vehicles, and equipment awaiting maintenance must be confined to designated areas (delineated on the site map). The plan must describe measures that prevent or minimize the contamination of storm water runoff from these areas. Management practices such as indoor storage of aircraft and ground vehicles, the use of drip pans for the collection of fluid leaks, and perimeter drains, dikes or berms surrounding storage areas should be considered.

(d) Material Storage Areas—Storage units of all materials (e.g., used oils, hydraulic fluids, spent solvents and waste aircraft fuel) must be maintained in good condition, so as to prevent contamination of storm water, and plainly labeled (e.g., "used oil," "Contaminated Jet-A," etc.). The plan must describe measures that prevent or minimize contamination of the storm water runoff from storage areas. Management practices such as indoor storage of materials, centralized storage areas for waste materials, and/or installation of berms and dikes around storage areas should be considered for implementation.

(e) Airport Fuel System and Fueling Areas—The plan must describe measures that prevent or minimize the discharge of fuels to the storm sewer resulting from fuel servicing activities or other operations conducted in support of the airport fuel system. Where the discharge of fuels into the storm sewer cannot be prevented, the plan shall indicate measures that will be employed to prevent or minimize the discharge of the contaminated runoff into receiving surface waters.

Where above ground storage timers are present, pollution prevention plan requirements shall be consistent with requirements established in 40 CFR 112.7 guidelines for the preparation and implementation of a spill prevention control and countermeasure (SPCC) plan. Where a SPCC plan already exists, the storm water pollution prevention plan may incorporate requirements into the PPP by reference.

(f) Source Reduction—This section specifies that facilities which conduct aircraft and/or runway (including taxiways and ramps) deicing/anti-icing operations shall evaluate present operating procedures to consider alternative practices which would reduce the overall amount of deicing/anti-icing chemical used and/or lessen the environmental impact of the pollutant source.

With regard to runway deicing operations, operators should begin by evaluating present chemical application rates to ensure against excessive over application. Devices which meter the amount of chemical being applied to runways help to prevent over application. Operators should also emphasize anti-icing operations which would preclude the need to deice; less chemical is required to prevent the formation of ice on a runway than is required to remove ice from a runway. To further assist in implementing anti-icing procedures, operators should also consider installing runway ice detection systems (RID) otherwise known as "pavement sensors" which monitor runway temperatures. Pavement sensors provide an indication of when runway

temperatures are approaching freezing conditions, thus alerting operators of the need to conduct anti-icing operations. Deicing/anti-icing chemicals applied during extremely cold, dry conditions, are often ineffective since they do not adhere to the ice surface and may be scattered as a result of windy conditions or aircraft movement. In an effort to improve the efficiency of the application, operators should consider pre-wetting the deicing chemical to improve the adhesion to the iced surface.

With regard to substitute deicing/ chemicals for runway use, operators should consider using chemicals which have less of an environmental impact on receiving waters. Potassium acetate, has a lower oxygen demand than glycol, is nontoxic to aquatic habitat or humans, and was approved by the FAA for runway deicing operations in November, 1991 (AC No. 150/5200–30A CHG 1).

In considering alternative management practices for aircraft deicing/ operations, operators should evaluate present application rates to ensure against excessive over application. In addition, operators may consider pretreating aircraft with hot water or forced air prior to the application of chemical deicer. The goal of this management practice is to reduce the amount of chemical deicer used during the operation. This management practice alone is not sufficient since discharges of small concentrations of glycol can have significant effects on receiving waters. It is, however, an effective measure to reduce the amount of glycol needed per operation.

(g) Management of Runoff—A number of reports including EPA's Guidance For Issuing NPDES Storm Water Permits For Airports, September 28, 1991 and Federal Aviation Administration (FAA) Advisory Circular (AC 150–5320–15) indicate that the most common location for deicing/anti-icing aircraft at U.S. airports is along the apron areas where mobile deicing vehicles operate from gate to gate. In a recent FAA survey of deicing/anti-icing operations at U.S. airports (June 1992), the majority of respondents indicated that spent deicer chemicals from aircraft deicing/anti-icing operations either drain to the storm sewer system, open areas, or are left to evaporate on the ramp.

This section specifies that operators shall provide a narrative description of BMPs to control or manage storm water runoff from areas where deicing/anti-icing operations occur in an effort to minimize or reduce the amount of pollutants being discharged from the site. For example, when deicing/anti-icing operations are conducted on aircraft during periods of dry weather, operators should ensure that storm water inlets are blocked to prevent the discharge of deicing/anti-icing chemicals to the storm sewer system. Mechanical vacuum systems or other similar devices can then be used to collect the spent deicing chemical from the apron surface for proper disposal to prevent those materials from later becoming a source of storm water contamination. Establishing a centralized deicing station would also provide better control over aircraft deicing/anti-icing operations in that it enables operators to readily collect spent deicing/anti-icing chemicals.

Once spent deicer/anti-icer chemicals are collected, operators can then select from various methods of disposal such as:

(i) Disposal to Sanitary Sewage Facility—Because glycols are readily biodegradable, runoff can be treated along with sanitary sewage. The receiving treatment plant would, however, have to have the capacity to handle the hydraulic load as well as the additional biochemical oxygen demand associated with the deicing/anti-icing chemical. Measurements have shown that the average oxygen demand for glycol is between 400,000 and 600,000 mg O2/L even if diluted per fluid manufacturers specifications (FAA AC 150–5320–15 CHG 1, 1991). To lessen both the increased hydraulic and pollutant loads due to runoff from airport deicing/anti-icing operations, retention basins may be located at the airport facility.

(ii) Retention and Detention Ponds—Conversion of suitable unused airport land into retention or detention basins allows for collection of large volumes of glycol waste from pavement surface runoff. The design capacity for such basins should at least handle surface runoffs for winter months noting the decreased microbial activity during the winter season which is needed for biodegradation, plus additional capacity for runoff during thawing periods. Continuous aeration would supply required oxygen and allow for faster biodegradation and release of glycol waste, which may reduce capacity requirements. Metering the discharge of flow from an onsite basin allows the operator to better control the rate of flow during peak flight hours and to avoid BOD shock loadings to a sanitary treatment facility or a surface water.

(iii) Recycling—Glycol recycling provides operators with a chemical cost savings since recaptured glycol can be sold or reused for other non-aircraft applications (FAA AC 150–5320–15, February 1991). Studies indicate that collected deicing chemicals which have glycol concentrations ranging from 15 to 25 percent can be cost effectively recycled. The optimal conditions for collecting the highest concentration of glycol in spent deicing fluid is directly from the apron or centralized deicing station when deicing operations are conducted during dry weather or light precipitation events. Deicing/anti-icing chemicals discharged to retention basins which are then allowed to mix with additional surface runoff typically result in glycol concentrations well below the acceptable range for recycling. There are, however, methods of physical separation presently available which increase the concentration of glycol and allow operators to recover a relatively reusable product.

(h) Inspections—In addition to the common pollution prevention plan requirements discussed in Part VI.C.3.d (Inspections), qualified personnel shall inspect equipment and areas involved in deicing/anti-icing operations on a weekly basis during periods when deicing/anti-icing operations are being conducted.

(i) Pollution Prevention Training—Pollution Prevention training programs shall inform management and personnel responsible for implementing activities identified in the storm water pollution prevention plan of the components and goals of the plan. Training should address topics such as spill response, good housekeeping, material management practices and deicing/anti-icing procedures. The pollution prevention plan shall identify periodic dates for such training. EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan.

(3) Comprehensive Site Compliance Evaluation. The storm water pollution prevention plan must describe the scope and content of comprehensive site evaluation that qualified personnel will conduct to: (1) Confirm the accuracy of the description of potential pollution sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of the permit. Comprehensive site compliance evaluations must be conducted at least annually. The individual or individuals who will conduct the evaluations must be identified in the plan and should be members of the pollution prevention team. Evaluation reports must be

retained for a period of at least 3 years following the date of evaluation.

Based on the results of each evaluation, the description of potential pollution sources, and measures and controls, the plan must be revised as appropriate within 2 weeks after each inspection. Changes in the measures and controls must be implemented on the site in a timely manner, and no later than 12 weeks after completion of the inspection.

5. Numeric Effluent Limitation

There are no additional numerical limitations beyond those in Part V.B. of this permit.

6. Monitoring and Reporting Requirements

In general, the quantitative data submitted with part 2 of the group application was inadequate to clearly identify particular areas of concern with respect to discharges of pollutants resulting from vehicle maintenance and/or deicing/anti-icing operations conducted at airport facilities. EPA believes that the part 2 sampling data does not provide justification that discharges resulting from deicing/anti-icing operations are not a significant source of pollutants. The sampling requirements for part 2 of the group application did not specify that facilities must sample storm water discharges from areas where deicing/anti-icing activities occur and/or during times when such operations were being conducted. As a result, only one facility indicated that the sampling data submitted was collected from areas where deicing/anti-icing activities were being conducted. After reviewing recent case studies on the effects of glycol discharges to receiving waters, EPA reports, and the results of FAA surveys, EPA believes that additional information on the impacts of discharges of deicing/anti-icing chemicals to receiving waters resulting from aircraft and runway deicing/anti-icing operations is warranted and necessary.

Both ethylene and propylene glycols exert high oxygen demands when released into receiving waters. As such, this section requires that facilities report both the Biochemical Oxygen Demand (BOD) and Chemical Oxygen Demand (COD) of discharges sampled at facilities that use at least 100,000 gallons or more of glycol-based deicing/anti-icing chemicals. The concentration of nitrogen and possibly ammonia are the concern with respect to deicing/anti-icing operations where urea is used. Therefore, this section requires that facilities subject to the monitoring requirements in Part XI.S.5. of the permit also report the concentration of Total Kjeldahl Nitrogen (TKN) in discharges sampled.

The results of the storm water survey conducted by FAA (June 1992) showed that 10 percent of the respondents who conduct deicing activities used more than 100,000 gallons of glycol-based deicing chemicals during winter seasons. In addition, those facilities using more than 100,000 gallons of glycol-based deicing chemicals accounted for 71 percent of the total amount of glycol-based deiced chemicals reported by all respondents in the survey. In a similar survey conducted by the American Association of Airport Executives, 4 percent of the airports conducting deicing activities used more than 100,000 gallons of ethylene glycol which represented approximately 76 percent of the total amount of ethylene glycol used by all airports surveyed.

a. Annual Loading Estimates. All facilities that use more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis shall prepare estimates of annual pollutant loadings resulting from discharges of spent deicing/anti-icing chemicals from the facility. The loading estimates shall reflect the amounts of deicing/anti-icing chemicals discharged to separate storm sewer systems or surface waters, prior to and after implementation of the facility's storm water pollution prevention plan. The purpose of these estimates is to calculate the net reduction in deicing/anti-icing chemical loadings to receiving streams. Such estimates shall be reviewed and certified by an environmental professional (engineer, scientist, etc.) with experience in storm water pollution prevention. The environmental professional need not be certified or registered, however, experience with development of storm water pollution prevention plans and with airport operations is critical to prepare accurate estimates. By means of the certification, the environmental professional, having examined the facility's deicing/anti-icing procedures and proposed control measures described in the storm water pollution prevention plan, shall attest that the loading estimates have been accurately prepared.

b. Analytical Monitoring Requirements. EPA believes that airports may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan and to characterize the discharge for potential environmental impacts, the permit requires airport facilities that use 100,000 gallons or more of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis to collect and analyze samples of their storm water discharges from areas where deicing/anti-icing activities occur for the pollutants listed in Table S–1. Airport facilities which use less than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or less than 100 tons of urea on an average annual basis are not required to monitor discharges resulting from deicing/anti-icing activities.

In determining if an airport is subject to the monitoring requirements, airport authorities must determine the "average annual usage rate" of deicing/anti-icing chemicals at their particular facility. The "average annual usage rate" is determined by averaging the total amounts of deicing/anti-icing chemicals used at the facility for the three previous calendar years. The total amount of deicing/anti-icing chemicals used at an airport facility is the cumulative amount used by the airport authority and each tenant of the airport facility. EPA recognizes that glycol-based deicing/anti-icing chemicals are often diluted with water prior to deicing aircraft. In some cases, deicing/anti-icing chemicals may constitute only 50 percent of the applied volume of liquid to aircraft. Therefore, in determining the fluid amounts of deicing/anti-icing chemicals used at a facility, operators should use the pre-dilution volume.

At a minimum, storm water discharges from airport facilities that use 100,000 gallons or more of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average basis must be monitored four times during the second year of permit coverage when deicing/anti-icing activities are occurring and from outfalls that receive storm water runoff from those areas. At the end of the second year of permit coverage, a facility must calculate the average concentration for all grab samples analyzed for each parameter listed in Table S–1 on an outfall-by-outfall basis. If more than four different events are sampled during a monitoring period, then the average concentration for each parameter shall be determined using all grab samples analyzed.

TABLE S–1.—INDUSTRY MONITORING REQUIREMENTS

Parameter	Cut-off concentration
Biochemical Oxygen Demand (BOD_5).	30 mg/L
Chemical Oxygen Demand (COD).	120 mg/L
Ammonia	19 mg/L
pH	6.0 to 9 s.u.

If the average concentration for all grab samples analyzed for a parameter is less than or equal to the value listed in Table S–1, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for all grab samples analyzed for a parameter is greater than the cut-off concentration listed in Table S–1, then the permittee is required to conduct monitoring four times for that parameter while deicing/anti-icing operations are occurring in the fourth year of the permit. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit.

TABLE S–2.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Collect a minimum of four samples during months of deicing/anti-icing (December–February) Conduct monitoring for four separate events during months of deicing/anti-icing (December–February) • Calculate the average concentration on an outfall by outfall basis, for all parameters analyzed during this period • If average concentration is greater than the value listed in Table S–1, then sampling is required during the fourth year of the permit • If average concentration is less than or equal to the value listed in Table S–1, then no further sampling is required for that parameter
4th Year of Permit Coverage	• Conduct monitoring four times, on an outfall by outfall basis, during the months of deicing/anti-icing (December–February) for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table S–1 • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, monitoring is required for all parameters of concern during the months of deicing/anti-icing (December–February)

In cases where the average concentration for all grabs analyzed for a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

c. Alternative Certification. The alternative certification provision discussed in other industry sectors described in Part VIII of this fact sheet are not applicable to discharges resulting from deicing/anti-icing operations. As structured, today's permit only requires monitoring from airports that use more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons of urea. In addition, airports that use less than the stated thresholds of deicing/anti-icing chemicals are not required to submit an alternative certification.

d. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage no later than the 31st day of March following the monitoring period. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. For facilities conducting monitoring beyond the minimum requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

e. Sample Type. A minimum of one grab and one flow-weighted composite sample shall be taken from each outfall that collects runoff from areas where deicing/anti-icing activities occur. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample is intended to provide information on the maximum expected concentrations of BOD5, COD, and ammonia as a result of deicing/anti-icing chemicals discharged during the precipitation event. The composite sample is intended to provide a measure of the BOD5, COD, ammonia loadings for the entire precipitation event as a result of the discharge of deicing/anti-icing chemicals. It will also provide site-specific information necessary for calculating the estimates of the annual pollutant loadings also required by this permit. The recommended methodology for performing grab and composite sampling is described at 40 CFR 122.21(g)(7). The permittee has the option to submit site-specific deicing/anti-icing discharge monitoring protocol and methodology, better suited to the particular facility, to the Director for approval.

f. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the

drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

T. Storm Water Discharges Associated With Industrial Activity From Treatment Works

1. Discharges Covered Under this Section

On November 16, 1990 (55 FR 47990), the U.S. Environmental Protection Agency (EPA) promulgated the regulatory definition of "storm water discharges associated with industrial activity." This definition includes point source discharges of storm water from eleven categories of facilities, including "* * * (ix) treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 M.G.D. or more or required to have an approved pretreatment program under 40 CFR part 403."

This section establishes special conditions for storm water discharges associated with industrial activity from treatment works treating domestic sewage with a design flow of 1.0 M.G.D. or more, or for treatment works that are required to have an approved pretreatment program under 40 CFR Part 403, or for those having land dedicated to the disposal of sewage sludge within the confines of the facility. Please note that storm water discharges from farm lands, domestic gardens, or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with Section 405 of the Clean Water Act (CWA), are not currently regulated under the Federal storm water regulations.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Industry Profile

Wastewater treatment plants remove organic and inorganic contaminants from domestic sewage and sludge. This section provides a description of the treatment processes for reducing pollutants in domestic sewage. The operations are basically the same at all treatment plants and may be categorized by three general processes: primary treatment, secondary treatment, and tertiary treatment.

Primary Treatment—The objective of primary treatment is the removal of settleable and suspended organic pollutants. This typically involves at least one of the following operations: screening, grit removal, and sedimentation. Chemical processes, such as disinfection, may also occur during primary treatment operations.

Secondary Treatment—The objective of secondary treatment is further removal of settleable solids and soluble organic matter. The operations employed during secondary treatment include biological oxidation via suspended growth or fixed film processes, such as activated sludge, rotating biological contractors or trickling filters.

Tertiary Treatment—The objectives of tertiary treatment include further treatment of wastewater, such as removal of suspended solids by filtration; removal of nutrients, such as phosphorus and nitrogen, typically through chemical additions and biological processes, or by selective ion exchange; and further removal of pollutants through activated carbon treatment.

Prior to discharge into a receiving water body, treated wastewater is disinfected using chlorination followed by dechlorination. Sludge produced during primary and secondary treatment is commonly combined, thickened, stabilized, and then mechanically dewatered. Sludge is aerobically or anaerobically stabilized by adjusting the pH with lime. This is followed by dewatering process where a polymer is added to condition the sludge for dewatering. Sludge is often stored onsite in piles exposed to weather, until final disposal (e.g., surface disposal, or incineration). When sludge is to be land applied, sludge drying beds or composting piles may be exposed to precipitation. In cases where sludge is incinerated onsite of the treatment plant, ash piles or impoundments may be exposed to precipitation.

3. Pollutants Found in Storm Water Discharges From Treatment Works

The impact of industrial activities at treatment works on storm water discharges will vary. Factors at a site which influence the water quality include geographic location, hydrogeology, the industrial activities exposed to storm water discharges, the facility's size, the types of pollution prevention measures/best management practices in place, and the type, duration, and intensity of storm events. Taken together or separately, these factors determine how polluted the storm water discharges will be at a given facility. For example, caustic soda may be significant source of pollutants at some facilities, while incinerator ash may be the primary pollutant source at others. Additionally, pollutant sources other than storm water, such as illicit connections, spills, and other improperly dumped materials, may increase the pollutant loading discharged into Waters of the United States.

Table T–1 lists industrial activities that commonly occur at treatment works, common pollutant sources at these facilities, and pollutants that are associated with these sources. Table T–1 identifies parameters as potential pollutants of concern associated with facilities covered by this section.

TABLE T–1.—DESCRIPTION OF INDUSTRIAL ACTIVITIES, POTENTIAL POLLUTANT SOURCES, AND POSSIBLE POLLUTANTS

Activity	Pollutant source	Pollutant
Preparation of biological and physical treatment processes.	Spills and leaks of process chemicals	Disinfectants, polymers and coagulants, alum, ferric chloride, soda ash, lime, sodium aluminate, sodium hypochlorite, caustic soda.

TABLE T–1.—DESCRIPTION OF INDUSTRIAL ACTIVITIES, POTENTIAL POLLUTANT SOURCES, AND POSSIBLE POLLUTANTS—Continued

Activity	Pollutant source	Pollutant
Soil amending and grass fertilizing	Over fertilizing	Commercial brands of balance fertilizers (6–6–6, 8–8–8 or 12–12–12), commercial sludge based products, nitrogen, other nutrients, phosphorous, ammonia.
Liquid storage in above ground storage	External corrosion and structural failure	Aluminum sulfate, liquid chlorine, liquid polymer, fuel, oil.
	Installation problems	Aluminum sulfate, liquid chlorine, liquid polymer, fuel, oil.
	Spills and overfills due to operator error	aluminum sulfate, liquid chlorine, liquid polymer, fuel, oil.
	Failure of piping systems (pipes, pumps, flanges, couplings, hoses, and valves).	Aluminum sulfate, liquid chlorine, liquid polymer, fuel, oil.
	Leaks or spills during pumping of liquids from barges, trucks, or rail cars to a storage facility.	Aluminum sulfate, liquid chlorine, liquid polymer, fuel, oil.
Pest Control	Large quantities of pesticide application, pesticide storage.	Diazanon, malathion, amdro, dimethylphthalate, diethyl phthalate, dichlorvos, carbaryl, skeetal, batex, liquid copper.
Sludge Drying Beds	Sludge	Nitrate, TDS, TSS, ammonia.
Sludge Storage Piles	Sludge	Nitrate, TDS, TSS, ammonia.
Sludge Transfer	Sludge, vehicles, transfer equipment	Nitrate, TDS, TSS, oil, fuel, hydraulic fluids, ammonia.
Incineration	Ash impoundments/piles	Heavy metals, TDS, TSS.
Miscellaneous	Grit and scum piles from clarifiers, screens, exposed soil.	TSS, heavy metals, fecal coliform, nitrate, TSS.

Sources: EPA, Risk Reduction Engineering Lab, Cincinnati, OH, and U.S. of America National Committee for Representation of the United States to the International Association of Water Pollution Research and Control. November 1989. "Developments at International Conference on Water Pollution Research (14th)." EPA/600/2–89/059.

EPA, Office of Water Program Operations. June 1983. "Need Survey, 1982. Conveyance, Treatment, and Control of Municipal Wastewater, Combined Sewer Overflows, and Storm Water Runoff: Summaries of Technical Data." EPA/430/9–83/002.

EPA, Office of Research and Development. May 1992. "Facility Pollution Prevention Guide." EPA/600/R–92/088.

EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities—Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at treatment works facilities as a whole and not subdivide this sector. Therefore, Table T–2 lists data for selected parameters from facilities in the treatment works sector. These data include the eight pollutants that all facilities were required to monitor for under Form 2F, as well as the pollutants that EPA has determined may merit further monitoring.

TABLE T–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY TREATMENT WORKS FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of Facilities		No. of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	49	48	94	93	32.7	44.2	0.0	0.0	1300.0	1300.0	12.0	7.5	78.0	83.0	171.6	203.4
COD	47	46	86	84	131.8	155.7	0.0	0.0	1900.0	2000.0	67.3	61.7	437.4	431.9	932.2	942.3
Nitrate + Nitrite Nitrogen	47	46	89	88	19.70	19.34	0.00	0.00	427.00	396.78	0.93	0.76	41.56	35.04	167.28	137.67
Total Kjeldahl Nitrogen	46	45	84	83	7.67	4.52	0.00	0.00	213.00	150.00	1.35	1.31	14.24	9.30	32.94	19.05
Oil & Grease	49	N/A	96	N/A	35.7	N/A	0.0	N/A	1210.0	N/A	1.2	N/A	60.5	N/A	202.8	N/A
pH	43	N/A	86	N/A	N/A	N/A	0.4	N/A	8.9	N/A	7.0	N/A	11.5	N/A	14.5	N/A
Total Phosphorus	49	48	91	89	0.91	0.67	0.00	0.00	9.50	5.92	0.47	0.45	2.91	2.20	6.21	4.39
Total Suspended Solids	50	49	95	93	153	111	0	2	1836	845	64	55	638	422	1661	1013

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.

[ii] Composite samples.

4. Options for Controlling Pollutants

Part 1 group application data indicate that BMPs have not been widely implemented at the representative sampling facilities. Less than 3 percent of the sampling subgroup reported that they cover loading areas, storage areas, or material handling areas; approximately 10 percent reported that they use containment; less than 4 percent of the representative facilities use concrete pads. The most commonly listed (approximately 15 percent) material management practice is catch basins. Because BMPs described in part 1 data are limited, the following table is provided to identify BMPs associated with activities that routinely occur at treatment works.

TABLE T–3.—GENERAL STORM WATER BMPS FOR TREATMENT WORKS

Activity	BMPs
Preparation of biological and physical treatment process.	Use drip pans under drums and equipment where feasible. Store process chemicals inside buildings. Inspect the storage yard for filling drip pans and other problems regularly. Train employees on procedures for storing and inspecting chemicals.
Soil amending and grass fertilizing	Use the appropriate amount of fertilizer. Do not overfertilize. Train employee on proper fertilizing techniques.
Liquid storage in above ground storage containers.	Maintain good integrity of all storage containers. Install safeguards (such as diking or berming) against accidental releases at the storage area. Inspect storage tanks to detect potential leaks and perform preventive maintenance. Inspect piping systems (pipes, pumps, flanges, couplings, hoses, and valves) for failures or leaks. Train employees on proper filling and transfer procedures.
Pest Control	Minimize pesticide application. Only apply pesticide if needed. Train employees on proper pesticide application.
Sludge Drying Beds	Ensure drying bed is draining properly (e.g., check for clogging); avoid overfilling drying bed; grade the land to divert flow around drying bed; berm, dike, or curb drying bed areas; cover drying beds.
Sludge Storage Piles	Confine storage of sludge to a designated area as far from any receiving water body as possible; store sludge on an impervious surface (e.g., concrete pad); grade the land to divert flow around storage piles; berm, dike, or curb sludge storage piles; cover sludge storage piles.
Sludge Transfer	Promptly remove any sludge spilled during transfer; conduct transfer operations over an impervious surface; avoid transferring sludge during rain events; grade the land to divert flow around transfer areas; berm, curb, or dike transfer areas; avoid locating transfer operations near receiving water bodies.
Incineration—ash impoundments/piles	Line ash impoundments with clay (or other type of impervious material); ensure ash impoundments will hold maximum volume of ash and a 10-year, 24-hour rain event; curb, berm, or dike ash storage areas; avoid locating ash storage areas near receiving water bodies.
Miscellaneous	Properly dispose of grit/scum; properly dispose of screens on a daily basis; maximize vegetative cover to stabilize soil and reduce erosion.

Sources: NPDES Storm Water Group Applications—Part 1. Received by EPA March 18, 1991 through December 31, 1992.
EPA, Office of Research and Development. May 1992. "Facility Pollution Prevention Guide." EPA/600/R–92/088.
EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities—Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.
U.S. Postal Service. May 1992. "NPDES/Storm Water Guide." AS–554.

5. Special Conditions

There are no additional requirements under this section other than those described in part VI.B of this fact sheet.

6. Storm Water Pollution Prevention Plan Requirements

There are no additional requirements under this section other than those described in Part VI.C. of this fact sheet.

7. Monitoring and Reporting Requirements

The regulatory modifications at 40 CFR 122.44(i)(2) established on April 2, 1992, grant permit writers the flexibility to reduce monitoring requirements in storm water discharge permits. EPA has determined that the potential for storm water discharges to contain pollutants above benchmark levels, because of the industrial activities and materials exposed to precipitation, does not support sampling at treatment works facilities.

Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, nitrate plus nitrite nitrogen is above the bench mark concentrations for the treatment works sector. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in this sector, EPA has determined that the higher concentrations of nitrate plus nitrite nitrogen are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require treatment works facilities to conduct analytical monitoring for this parameter.

Based on a consideration of the BMPs typically used at these facilities, and generally low pollutant values from the application data, EPA believes that the pollution prevention plan with visual examinations of storm water discharges will help ensure storm water contamination is minimized.

a. Quarterly Visual Examination of Storm Water. Quarterly visual examinations are required of a storm water discharge from each outfall at the treatment works. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each of the following 3-month periods during daylight unless there is insufficient rainfall or snowmelt to runoff: January through March, April through June, July through September, and October through December. Whenever practicable, the

same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

EPA believes that with quarterly visual examinations and site compliance evaluations, potential sources of contaminants can be identified and controlled with BMPs. In determining the monitoring requirements, EPA considered the nature of the industrial activities and significant materials exposed at these sites, and performed a review of data provided in Part 2 group applications.

U. Storm Water Discharges Associated With Industrial Activity From Food and Kindred Products Facilities

1. Discharges Covered Under this Section

On November 16, 1990 (55 FR 47990), EPA promulgated the regulatory definition of "storm water discharges associated with industrial activity." This definition included point source discharges of storm water from 11 major categories of facilities, including: "* * * (xi) Facilities under Standard Industrial Classifications 20, 21 * * *."

This section covers storm water discharges associated with industrial activities from establishments manufacturing or processing foods and beverages for human consumption, and related products, and prepared feeds for animals and fowls. This section also covers establishments engaged in manufacturing cigarettes, cigars, and other tobacco products. Food and kindred products processing facilities subject to requirements under this section include the following types of operations (i.e., subsectors):

a. Meat Products (generally described by SIC Codes 2011, 2013, and 2015).

b. Dairy Products (generally described by SIC Codes 2021, 2022, 2023, 2024, and 2026).

c. Canned, Frozen, and Preserved Fruits, Vegetables, and Food Specialties (generally described by SIC Codes 2032, 2033, 2034, 2035, 2037, and 2038).

d. Grain Mill Products (generally described by SIC Codes 2041, 2043, 2044, 2045, 2046, 2047, and 2048).

e. Bakery Products (generally described by SIC Codes 2051, 2052, and 2053).

f. Sugar and Confectionery Products (generally described by SIC Codes 2061, 2062, 2063, 2064, 2066, 2067, and 2068).

g. Fats and Oils (generally described by SIC Codes 2074, 2075, 2076, 2077, and 2079).

h. Beverages (generally described by SIC Codes 2082, 2083, 2084, 2085, 2086, and 2087).

i. Miscellaneous Food Preparations and Kindred Products (generally described by SIC Codes 2091, 2092, 2095, 2096, 2097, 2098, and 2099).

j. Tobacco Products (generally described by SIC Codes 2111, 2121, 2131, and 2141).

Storm water discharges covered by this section include discharges from industrial plant yards; material handling sites; refuse sites; sites used for application or disposal of process wastewaters; sites used for storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas for raw materials and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and where the aforementioned areas are exposed to storm water.

This section does not cover any discharges subject to effluent limitations guidelines, including storm water that combines with process wastewater. Also, storm water that does not come into contact with any raw material, intermediate product, finished product, by-product, or waste product located on the site of the operation are not subject to permitting under this section according to 40 CFR 122.26(b)(14).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the

other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Industry Profile

From subsectors comprising the Food and Kindred Products Sector, as of January 1, 1993, 26 Part 2 Group Storm Water Applications were received from 9 of the 10 industrial subsectors (excluding tobacco products) and 31 different primary SIC Codes. Subsector descriptions for all facilities within the Food and Kindred Products sector are as follows:

a. Meat Products Subsector (SIC Code 201X). The Meat Products subsector is separated into three segments. These include meat packing plants (SIC 2011); sausages and other prepared meat products (SIC 2013); and poultry slaughtering and processing (SIC 2015). All three of the industrial segments submitted group application information. Production related activities for these segments include stockyards, slaughtering (killing, blood processing, viscera handling, and hide processing), cutting and deboning, meat processing, rendering, and materials recovery.

b. Dairy Products Subsector (SIC Code 202X). The Dairy Products subsector is separated into five segments. These segments include creamery butter; natural, processed, and imitation cheese; dry, condensed, and evaporated dairy products; ice cream and frozen desserts; and fluid milk. All five of the industrial segments submitted group application information. Although a variety of operations are encountered in the Dairy Products subsector, the initial operations (e.g., receiving stations, clarification, separation, and pasteurization) are common to most dairy plants and products. However, after these initial operations, the processes and equipment become highly dependent on the product segments. These operations may include: culturing, churning, pressing, curing, blending, condensing, sweetening, drying, milling, and packaging.

c. Canned Frozen and Preserved Fruits, Vegetables, and Frozen Specialties Subsector (SIC Code 203X). The Canned Frozen and Preserved Fruits, Vegetables, and Frozen Specialties subsector is separated into six segments. They include canned specialties; canned fruits, vegetables, preserves, jams, and jellies; dried and dehydrated fruits, vegetables, and soup mixes; pickled fruits and vegetables, vegetable sauces and seasonings, and salad dressings; frozen fruits, fruit juices, and vegetables; and other frozen specialties. Five of the six segments are represented in the part 2 application information with the pickled fruits and vegetables, vegetable sauces and seasonings, and salad dressings being the lone segment not represented in the part 2 data by a primary SIC Code (although this segment is represented as a secondary SIC Code). All of the facilities use various fruits or vegetables as the primary raw material. Sweeteners, such as sugar and corn syrup, are used as secondary raw materials. Typically, fruits and vegetables are washed, cut, blanched, and cooked prior to being classified as finished product. Additional operations may include drying, dehydrating, and freezing.

d. Grain Mills Subsector (SIC Code 204X). The Grain Mills subsector is separated into seven segments. These include flour and other grain mill products; cereal breakfast foods; rice milling; prepared flour mixes and doughs; wet corn milling; dog and cat food; and prepared feeds and feed ingredients for animals and fowls, except dogs and cats. Six of the seven segments are represented in the part 2 application information with the rice milling segment being the lone segment not represented in the part 2 data by a primary SIC Code. Process operations performed in the grain mill subsector include: washing, milling, debranning, heat treatment (i.e., steeping, parboiling, drying and cooking), screening, shaping (i.e., extruding, grinding, molding, and flaking), and vitamin and mineral supplementing.

e. Bakery Products Subsector (SIC Code 205X). The Bakery Products subsector is separated into three segments. These include the following industrial activities: bread and other bakery products, except cookies and crackers; cookies and crackers; and frozen bakery products, except bread. All three segments are represented in the part 2 application information by a primary SIC Code. Process operations in this subsector include mixing, shaping of dough, cooling, and decorating.

f. Sugar and Confectionery Subsector (SIC Code 206X). The Sugar and Confectionery subsector is separated into seven segments. These include the following industrial activities: cane sugar, except refining; cane sugar refining; beet sugar; candy and other confectionery products; chocolate and cocoa products; chewing gum; and salted and roasted nuts and seeds. Only two of the seven segments are represented in the part 2 application information (i.e., candy and other confectionery products and chocolate and other cocoa products). The primary raw materials include sugar, flavorings (including chocolate), flour, nuts, and milk, which are then mixed together, cooked, and then formed using various techniques into specified product shapes. The manufacture of chocolate products requires shelling, roasting, and grinding of the cocoa beans followed by the typical sugar processing operations identified above.

g. Fats and Oils Subsector (SIC Code 207X). The Fats and Oils subsector is separated into five segments. These include the cottonseed oil mills; soybean oil mills; vegetable oil mills, except corn, cottonseed, and soybean; animal and marine fats and oils; and shortening, table oils, margarine, and other edible fats and oils, not elsewhere classified. Only two of the five segments are represented in the part 2 application information (i.e., animal and marine fats and oils and shortening, table oils, margarine, and other edible fats and oils, not elsewhere classified). Typical process operations at an animal and marine fats and oils facility include cooking of inedible fats and oils from butcher shops, supermarkets, food manufacturing facilities, restaurants, and slaughterhouses, tallow and grease separation from proteinaceous solids. The solids are then ground to produce meat and bone meal. Operations at an edible oils manufacturer include refining, bleaching, hydrogenation, fractionation, emulsification, deodorization, filtration, and blending of the crude oils into edible products.

h. Beverages Subsector (SIC Code 208X). The Beverages subsector is separated into six segments. These include the malt beverages; malt; wines, brandy, and brandy spirits; distilled and blended liquors; bottled and canned soft drinks and carbonated waters; and flavoring extracts and flavoring syrups, not elsewhere classified segments. Four the six segments are represented by the part 2 application with malt and wines, brandy, and brandy spirits being the two segments not represented by the part 2 application information. Process operations may include brewing, distilling, fermentation, blending, and packaging (i.e., bottling, canning, or bulk packaging).

i. Miscellaneous Food Preparation and Kindred Products Subsector (SIC Code 209X). The Miscellaneous Food Preparation and Kindred Products

subsector is separated into seven industrial segments. These include canned and cured fish and seafood; prepared fresh or frozen fish and seafoods; roasted coffee; potato chips, corn chips, and similar snacks; manufactured ice; macaroni, spaghetti, vermicelli, and noodles; and food preparations, not elsewhere classified segments. Three of the seven segments are represented by the part 2 application information (i.e., prepared fresh or frozen fish and seafoods; potato chips, corn chips, and similar snacks; and macaroni, spaghetti, vermicelli, and noodles). Process operations may include shelling, washing, drying, shaping, baking, frying, and seasoning.

j. Tobacco Products Subsector (SIC Code 21XX). The tobacco products subsector is separated into four segments. These include cigarettes, cigars, chewing and smoking tobacco and snuff, and tobacco stemming and redrying. None of these four segments submitted part 2 application information. Typical process operations may include drying, blending, shaping, cutting and rolling.

3. Pollutants in Storm Water Discharges Associated with Food and Kindred Products Processing Facilities.

Typical food and kindred products processing facilities do not conduct many processing operations outdoors. The nature of the business, and the required sanitary conditions, require that the raw materials through final product be protected from storm water. As such, the contamination of storm water from this sector is primarily from the loading and unloading of products and raw materials, spillage and leaks from tanks and containers stored outdoors, waste management practices, pest control, and improper connections to the storm sewer. Table U–1 lists potential pollutant sources from activities that commonly take place at food and kindred products processing facilities.

TABLE U–1.—DESCRIPTION OF POTENTIAL POLLUTANT SOURCES [i, ii, iii]

Activity	Pollutant source	Pollutant(s)
A. Raw Material Unloading/Product Loading.	• Container defects (bags, drums, bottles, crates) • Spills and leaks during unloading/ loading (tanks, rail cars) • Failed connections (hoses and couplings) • Washdown of unloading/loading area	BOD, TSS, O&G, pH, TKN.
B. Storage Containers:		
Liquid Storage (i.e., above ground storage tanks).	• Failed piping and connections (couplings, flanges, hoses, and valves) • External corrosion and structural failure • Spills and overflows due to operator error	BOD, TSS, O&G, pH.
Liquid Storage (drums, carboys, and gallon jugs).	• Outside containers • Open containers • External corrosion of the containers • Operator handling and transporting • Spills and leaks from damaged containers	BOD, TSS, O&G, pH.
Solid Storage (silos, holding bins, fiber drums, etc.).	• Dust and particulates • Operator handling and transporting • Spills and leaks	BOD, TSS, pH.
C. Waste Management:		
Air Emissions	• Oven emissions • Vents • Fine solids handling	BOD, TSS, O&G, pH.
Solid Waste	• Dumpsters and trash cans • Spent equipment, scraps, etc.	BOD, TSS, O&G, pH, copper, manganese.
Wastewater	• Treatment processes (e.g., hydraulic overflow) • Outside piping and connections (couplings, flanges, hoses, valves, and pumps)	BOD, TSS, O&G, pH, fecal coliform.
D. Pest Control:		
Pesticides, rodenticides, insecticides.	• Outside areas of applications	Miscellaneous insecticides, rodenticides, pesticides, etc., TKN.
E. Improper Connections to the Storm Sewer.	• Process wastewaters • Process floor drains • Sanitary sewers • USTs	BOD, TSS, O&G, pH.

[i] "Standard Handbook of Environmental Engineering," Corbitt, Robert A., McGraw-Hill, Inc., 1990.
[ii] Air Pollution Engineering Manual, Air and Waste Management Association, Edited by Anthony J. Buonicore and Wayne T. Davis, Van Nostrand Reinhold, New York, 1992.
[iii] "Environmental Engineering and Sanitation," Fourth Edition, Salvato, Joseph A., John Wiley & Sons, Inc., 1992.

Impacts caused by storm water discharges from food and kindred products processing facilities will vary from facility to facility. Several factors influence to what extent operations at the site can affect water quality. Such factors include: geographic location; hydrogeology; the types of industrial activities exposed to storm water; the size of the operation; the nature of storm water control measures in place; and the type, duration, and intensity of precipitation events. Each of these factors interact to influence the quantity and quality of storm water runoff. For example, flour/oil particulate emissions from vents (e.g., from baking operations) may be a significant source of pollutants at some facilities, while material storage may be a primary source at others. Similarly, a facility with all storm water from exposed industrial activity diverted to the sanitary sewer would have less of an impact than a facility not practicing this control option. In addition, sources of pollutants other than storm water, such as illicit

connections, spills, and improperly dumped materials, may increase the pollutant loadings discharged in the receiving stream.

EPA reviewed Part 1 Group Storm Water Applications for facilities identified as sampling facilities to determine the types of significant materials from food and kindred products processing that are exposed to storm water. A list of these significant materials is presented in Table U–2. Note that significant materials related to vehicle maintenance (e.g., diesel fuel) and other miscellaneous nonprocessing materials (e.g., lumber) are not included in Table U–2.

TABLE U–2.—SIGNIFICANT MATERIALS EXPOSED TO STORM WATER

Acids (phosphoric, sulfuric)	Feathers
Activated carbon	Feed
Ammonia	Ferric chloride
Animal cages	Fruits, vegetables, coffee beans
Bleach	Gel bone
Blood	Grain (flour, oats, wheat)
Bone meal	Hides
Brewing residuals	Lard
Calcium oxide	Manure
Carbon dioxide	Milk
Caustic soda	Salts (brine)
Chlorine	Skim powder
Cheese	Starch
Coke oven tar	Sugar (sweetner, honey, fructose, syrup)
Detergent	Tallow
Eggs	Wastes (off-spec product, sludge)
Ethyl alcohol	Whey
Fats, greases, shortening, oils	Yeast

Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the food and kindred products industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: meat products; dairy products; canned, frozen, and preserved fruits; grain mill products; bakery products; sugar and confectionery products; fats and oils; beverages; miscellaneous food and kindred products; and tobacco products. Tables below include data for the eight pollutants that all facilities were required to monitor for under Form 2F. The tables also list those parameters that EPA has determined may merit further monitoring. A table has not been included for the following subsectors because less than 3 facilities submitted data in that subsector: sugar and confectionery products facilities; and tobacco products facilities.

TABLE U–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY MEAT PRODUCTS FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	30	29	51	50	25.9	19.2	0.0	0.0	170.0	81.0	12.0	9.2	102.5	78.7	248.436	182.3
COD	30	29	51	50	184.3	122.8	0.0	0.0	1307.0	1307.0	80.0	72.0	717.3	350.7	1623.7	659.3
Nitrate + Nitrite Nitrogen	30	29	51	50	1.35	1.24	0.00	0.00	4.75	8.66	0.86	0.60	4.54	3.78	8.84	7.10
Total Kjeldahl Nitrogen	30	29	51	50	3.30	3.57	0.00	0.00	18.00	27.00	2.00	1.80	9.59	12.55	16.92	26.07
Oil & Grease	31	N/A	52	N/A	7.7	N/A	0.0	N/A	34.0	N/A	6.6	N/A	25.3	N/A	41.7	N/A
pH	24	N/A	38	N/A	N/A	N/A	5.9	N/A	8.6	N/A	7.7	N/A	8.9	N/A	9.5	N/A
Total Phosphorus	30	29	51	50	20.45	0.94	0.02	0.02	970.00	9.70	0.28	0.28	9.89	3.11	36.98	8.25
Total Suspended Solids	30	29	51	50	397	206	0	0	2540	2120	98	66	2266	902	7830	2618

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE U–4.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY DAIRY PRODUCTS FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	33	33	81	81	66.4	49.6	0.0	0.0	1400.0	1360.0	17.0	10.0	185.0	122.4	479.0	297.5
COD	33	33	81	81	214.7	149.3	15.0	0.0	3010.0	2100.0	94.0	78.4	647.0	418.0	1385.3	836.8
Nitrate + Nitrite Nitrogen	33	33	81	81	1.24	0.99	0.00	0.00	25.52	8.68	0.61	0.57	3.53	3.16	7.18	6.31
Total Kjeldahl Nitrogen	33	33	81	81	4.35	3.68	0.00	0.00	32.00	32.40	2.50	2.44	12.40	10.18	22.65	18.04
Oil & Grease	33	N/A	81	N/A	6.1	N/A	0.0	N/A	92.4	N/A	2.0	N/A	26.1	N/A	58.9	N/A
pH	31	N/A	78	N/A	N/A	N/A	4.4	N/A	9.0	N/A	7.0	N/A	8.6	N/A	9.4	N/A
Total Phosphorus	33	33	80	80	1.68	1.07	0.00	0.00	24.40	6.80	0.50	0.38	7.59	4.71	19.51	11.35
Total Suspended Solids	32	32	79	79	225	218	0	0	2667	3110	56	53	967	798	2932	2274

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE U–5.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY CANNED, FROZEN, AND PRESERVED FRUITS, VEGETABLES AND FOOD SPECIALTIES FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	29	26	71	56	[illegible]	44.0	0.0	0.0	1550.0	1150.0	9.1	8.5	[illegible]	[illegible]	305.3	[illegible]
COD	27	24	69	55	174.6	153.4	0.0	0.0	3610.0	2820.0	[illegible]	[illegible]	[illegible]	[illegible]	1293.2	[illegible]
Nitrate + Nitrite Nitrogen	28	26	[illegible]	57	[illegible]	0.93	0.00	0.00	14.70	9.60	[illegible]	0.40	[illegible]	2.74	8.17	[illegible]
Total Kjeldahl Nitrogen	30	27	73	59	[illegible]	[illegible]	0.00	0.00	[illegible]	[illegible]	[illegible]	[illegible]	14.27	[illegible]	[illegible]	29.35
Oil & Grease	28	N/A	[illegible]	N/A	[illegible]	N/A	0.0	N/A	[illegible]	N/A	1.2	N/A	27.7	N/A	75.0	N/A
pH	28	N/A	68	N/A	N/A	N/A	4.3	N/A	10.3	N/A	7.1	N/A	[illegible]	N/A	9.7	N/A
Total Phosphorus	29	26	68	57	1.02	[illegible]	0.00	0.00	11.80	8.30	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	7.73
Total Suspended Solids	30	27	73	[illegible]	147	112	0	0	1840	[illegible]	67	49	787	585	[illegible]	[illegible]

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE U–6.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY GRAIN MILL PRODUCTS FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	72	70	77	75	[illegible]	[illegible]	0.0	0.0	713.0	968.0	[illegible]	21.0	[illegible]	[illegible]	770.8	613.7
COD	72	70	77	74	[illegible]	211.4	0.0	0.0	2000.0	[illegible]	[illegible]	81.0	937.4	[illegible]	2170.9	[illegible]
Nitrate + Nitrite Nitrogen	73	71	79	75	1.82	1.08	0.00	0.00	[illegible]	17.70	0.38	0.50	6.51	5.29	19.50	13.97
Total Kjeldahl Nitrogen	72	70	77	74	10.3	7.62	0.00	0.00	78.00	75.00	[illegible]	[illegible]	[illegible]	25.19	[illegible]	[illegible]
Oil & Grease	73	N/A	78	N/A	4.4	N/A	0.0	N/A	[illegible]	N/A	[illegible]	N/A	21.6	N/A	[illegible]	N/A
pH	73	N/A	78	N/A	N/A	N/A	5.0	N/A	8.9	N/A	7.0	N/A	8.2	N/A	8.8	N/A
Total Phosphorus	72	70	77	74	8.17	2.90	[illegible]	[illegible]	[illegible]	10.70	1.74	1.70	[illegible]	[illegible]	[illegible]	22.82
Total Suspended Solids	72	70	77	74	324	[illegible]	4	4	3300	4550	112	110	1486	1233	4338	3469
Zinc, Total	17	17	17	17	1.408	1.342	0.060	0.110	[illegible]	7.350	0.30	0.31	[illegible]	[illegible]	[illegible]	[illegible]

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE U–7.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY BAKERY PRODUCTS FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	16	17	32	34	[illegible]	17.5	4.0	0.0	[illegible]	85.0	13.0	11.50	45.7	46.6	[illegible]	[illegible]
COD	16	17	32	34	103.7	92.3	16.2	14.0	514.0	[illegible]	[illegible]	[illegible]	[illegible]	236.2	[illegible]	[illegible]
Nitrate + Nitrite Nitrogen	16	17	32	34	0.47	0.56	0.00	0.00	1.94	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Total Kjeldahl Nitrogen	16	17	32	34	[illegible]	2.41	0.00	0.00	[illegible]	[illegible]	2.40	2.15	9.15	6.33	[illegible]	10.14
Oil & Grease	16	N/A	32	N/A	14.0	N/A	0.0	N/A	93.0	N/A	5.0	N/A	[illegible]	N/A	[illegible]	N/A
pH	14	N/A	30	N/A	N/A	N/A	6.1	N/A	[illegible]	N/A	7.1	N/A	8.3	N/A	8.9	N/A
Total Phosphorus	16	17	32	34	[illegible]	[illegible]	[illegible]	[illegible]	2.10	[illegible]	0.47	[illegible]	1.51	1.71	2.47	3.23
Total Suspended Solids	16	17	32	34	140	[illegible]	2	2	410	[illegible]	103	41	868	[illegible]	2686	750

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE U–8.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY FATS AND OILS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	12	12	19	19	[illegible]	[illegible]	0.0	0.0	[illegible]	75.0	57.0	41.0	240.7	[illegible]	[illegible]	177.1
COD	12	12	19	19	322.6	191.1	17.0	9.60	1040.0	[illegible]	[illegible]	150.0	1253.4	[illegible]	2622.1	1216.4
Nitrate + Nitrite Nitrogen	12	12	19	19	[illegible]	[illegible]	[illegible]	0.23	18.30	[illegible]	1.37	1.01	7.97	[illegible]	15.95	[illegible]
Total Kjeldahl Nitrogen	12	12	19	19	19.60	7.96	[illegible]	0.0	[illegible]	[illegible]	3.40	2.75	[illegible]	24.1	[illegible]	53.5
Oil & Grease	11	N/A	18	N/A	[illegible]	N/A	0.0	N/A	150.0	N/A	7.8	N/A	178.1	N/A	527.7	N/A
pH	11	N/A	17	N/A	N/A	N/A	5.7	N/A	10.0	N/A	7.6	N/A	10.0	N/A	11.1	N/A
Total Phosphorus	12	12	19	19	0.91	1.96	[illegible]	[illegible]	8.11	15.8	0.37	0.23	3.18	6.75	7.65	21.73
Total Suspended Solids	10	11	17	18	[illegible]	442	3	[illegible]	[illegible]	[illegible]	296	175	3746	1725	[illegible]	[illegible]

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE U–9.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY BEVERAGES FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	16	15	29	23	16.8	[illegible]	1.0	1.0	153.0	35.0	[illegible]	5.0	52.7	25.1	115.4	[illegible]
COD	16	15	29	23	70.1	42.1	9.0	5.0	270.0	88.0	[illegible]	46.0	214.3	[illegible]	401.6	217.3
Nitrate + Nitrite Nitrogen	16	15	29	[illegible]	[illegible]	0.65	[illegible]	0.04	1.90	2.10	0.41	[illegible]	1.67	2.12	[illegible]	3.96
Total Kjeldahl Nitrogen	16	15	29	[illegible]	1.54	0.95	0.31	0.27	7.45	[illegible]	1.00	0.74	3.82	2.11	[illegible]	3.15

TABLE U–9.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY BEVERAGES FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)—Continued

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
Oil & Grease	18	N/A	29	N/A	1.7	N/A	0.0	N/A	7.0	N/A	1.2	N/A	4.3	N/A	5.4	N/A
pH	18	N/A	29	N/A	N/A	N/A	4.8	N/A	9.0	N/A	7.3	N/A	8.0	N/A	9.8	N/A
Total Phosphorus	18	15	29	23	0.51	0.56	0.05	0.06	5.40	2.70	0.26	0.20	1.39	0.94	2.79	1.71
Total Suspended Solids	18	15	29	23	29	9.7	5	0	170	36	18	5	95	32	193	65
Zinc, Total	10	8	11	9	0.179	0.141	0.000	0.000	0.640	0.360	0.13	0.07	0.548	0.517	0.602	0.368

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE U–10.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY MISCELLANEOUS FOOD PREPARATIONS AND KINDRED PRODUCTS FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	7	7	15	15	18.8	11.9	0.0	0.0	87.0	66.0	8.5	4.20	59.0	39.5	118.5	80.6
COD	7	7	15	15	105.1	81.1	13.0	17.0	297.0	204.0	63.0	52.0	371.2	211.4	752.3	384.2
Nitrate + Nitrite Nitrogen	7	7	15	15	0.46	0.47	0.00	0.0	1.17	1.32	0.48	0.38	1.79	1.65	3.11	2.93
Total Kjeldahl Nitrogen	7	7	15	15	2.76	1.96	0.44	0.40	11.90	7.61	1.58	1.36	8.86	5.51	17.42	9.99
Oil & Grease	7	N/A	15	N/A	4.4	N/A	0.0	N/A	16.0	N/A	2.9	N/A	15.7	N/A	28.5	N/A
pH	8	N/A	16	N/A	N/A	N/A	2.3	N/A	8.6	N/A	6.9	N/A	12.0	N/A	N/A	
Total Phosphorus	7	7	15	15	0.52	0.425	0.03	0.03	1.67	1.67	0.30	0.23	2.50	1.91	6.31	4.91
Total Suspended Solids	7	7	15	14	881	122	0	1	2880	1063	179	51	6441	719	21483	2408

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

4. Options for Controlling Pollutants.

One option for controlling pollutants in storm water is to set effluent limitations for these discharges. EPA does not consider this to be feasible because of the lack of performance data necessary to develop limitations.

Pursuant to 40 CFR 122.44(k), permits may contain Best Management Practices (BMPs) to control or abate the discharge of pollutants in storm water, when applicable (and where numeric effluent limitations are infeasible). EPA believes that the most effective BMPs for reducing pollutants in storm water discharges from food and kindred products processing facilities is through exposure minimization and good housekeeping practices. Exposure minimization practices reduce the potential for storm water to come in contact with pollutants. Good housekeeping practices ensure that the facility is responsive to routine and non-routine activities that may increase exposure of pollutants to storm water. The BMPs necessary to address these two concerns are generally uncomplicated and inexpensive practices. They are easy to implement, and require little or no maintenance. Minor capital expenses, such as construction of cement pads or berms/dikes, may be necessary in some cases, although these types of control structures already exist at many food and kindred products processing facilities. In a few instances, more intensive BMPs, such as detention ponds or filtering devices, may be necessary depending on the type of discharge, types and concentrations of contaminants, and volume of flow, although these occurrences are expected to be very low for the sector as a whole. The types of material management practices identified in the storm water group applications for the food and kindred products processing sector, for sampling facilities only, are identified in Table U–11. In fact, part 1 group application data indicate that BMPs are widely implemented at food and kindred products processing facilities.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, geology/hydrogeology and the environmental setting of each facility, and volume and type of discharge generated. Each facility will be unique in that the source, type, and volume of contaminated storm water will differ. In addition, the fate and transport of pollutants in these discharges will vary. EPA believes that the management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with food and kindred products processing facilities.

TABLE U–11.—MATERIAL MANAGEMENT PRACTICES[i,ii]

Absorbent mats
Baghouse
BMPs
Catch basin
Concrete pad
Containment
Cover (drums, holding pen, loading, storage)
Curbing
Diking
Diversion
Drains
Dust control
Housekeeping
Indoor storage
Infiltration
Preventative maintenance
Retaining wall
Roof drains
Sealed tanks
Shoveling
Site inspection
Spill prevention plan
Spillstoppers
Stone filters
Sumps
Swales
Sweeping
Tarps (i.e., temporary covers)
Training
V-Strips

TABLE U–11.—MATERIAL MANAGEMENT PRACTICES[i,ii]—Continued

Mopping	Vacuuming
Oil interceptor	Valves
Oil/water separators	Vinyl socks
Overfill protection	Waste minimization procedures
Ponds	Wetland

[i] NPDES Storm Water Group Applications—Part 2. Application Nos. 12, 13, 37, 81, 125, 159, 178, 179, 312, 436, 437, 446, 541, 557, 583, 584, 599, 630, 730, 789, 811, 819, 935, 936, 1006, 1096, 1147, and 1159.
[ii] NPDES Storm Water Group Applications—Part 1. Application Nos. 12, 13, 37, 60, 81, 125, 144, 159, 178, 179, 312, 436, 437, 446, 533, 541, 545, 557, 583, 584, 599, 630, 680, 730, 733, 789, 811, 819, 932, 935, 936, 1006, 1096, 1147, 1159, and 1217.

Table U–12 identifies general BMPs that are applicable to a variety of food and kindred products processing subsectors, while Table U–13 identifies BMPs for specific processing operations.

TABLE U–12.—GENERAL STORM WATER BMPS FOR THE FOOD AND KINDRED PRODUCTS PROCESSING SECTOR[i,ii,iii,iv]

Activity	BMPs
A. Raw Material Unloading/Product Loading	• Ensure that a facility representative is present during unloading/loading activities.
	• Inspect the unloading/loading areas to detect problems before they occur.
Shipping and Receiving	• Close storm drains during loading/unloading activities in surrounding area.
	• Inspect all containers prior to unloading/loading of any raw or spent materials.
	• Install backflow prevention devices on liquid transfer equipment.
	• Inspect all connection equipment (e.g., hoses and couplings), and replace when necessary, before performing unloading/loading activities.
	• Perform all unloading/loading activities in a covered and/or enclosed areas.
	• Use drip pans when loading/unloading liquid product.
	• Situate loading/unloading areas indoors or in a covered area.
	• Use rubber seals in truck loading dock areas to contain spills indoors.
	• Drain hoses back into truck, railcar, etc. after loading/unloading materials.
	• Install high level alarm on tanks to prevent overfilling.
	• Ensure that berms and dikes are built around the unloading/loading areas, if applicable.
	• If outside or in covered areas, minimize runon of storm water into the unloading/loading areas by grading the areas to ensure that storm water runs off.
	• Use dry cleanup methods for unloading/loading areas rather than washing the areas down.
	• Train employees on proper unloading/loading techniques.
	• Initiate an inventory control for all raw and spent materials.
B. Storage Containers:	
Liquid Storage	• Inspect the external condition (corrosion, leaks) of the containers.
	• Inspect the general area around the containers.
	• Ensure that beams and dikes are built around the containers.
	• Cover and/or enclose.
	• Bulkhead liquid storage tanks indoors (i.e., tank outlets located inside buildings).
Liquid Storage (drums, carboys, and gallon jugs).	• Ensure that all containers are closed (e.g., valves shut, lids and manways sealed, caps closed).
	• Wash containers indoors before storing empty containers outdoors.
	• If outside or in a covered area, minimize runon of storm water into a storage area by grading area to ensure that storm water runs "off" and not "on".
	• Train employees on proper storage techniques (e.g., filling and transferring contents).
	• Maintain employee training on proper handling and transportation of materials.
	• Maintain an inventory control of all raw and spent materials.
	• Employ measures to protect against spillage from the overflows (e.g., high level sensors, alarms).
Solid Storage (silos, holding bins, fiber drums, etc.).	• Consider vacuum emission control systems for airborne dust and particulate matter.
C. Waste Management:	
Wastewater	• Perform treatment processes in-house, if possible.
	• Inspect the outside pipe connections (couplings, valve seals and gaskets, flanges, etc.) of the treatment system for leaks, corrosion, and poor maintenance upkeep.
Solid Waste (paper, wood pellets, scrap metals, refuse, etc.).	• Inspect the general area around the solid waste (e.g., look for signs of leaching).
	• Store waste so that it is physically contained (dumpsters, drums, bags).
	• Store waste in an enclosed/covered area.
	• If outside or in a covered area, minimize exposure to storm water by grading the area to ensure that storm water runs "off" and not "on".
	• Ensure hazardous waste disposal practices are performed in accordance with Federal, State, and local requirements.
	• Route trash compactor leakage to treatment system or sanitary sewer.
Air Emissions	• Clean around vents and stacks to atmosphere from process and storage areas.
	• Place tubs around vents and stacks for easy collection of settling particles.
	• Inspect air emission control systems (e.g., baghouses) regularly and repair and replace as necessary.
	• Route overflows/condensates from process vents to onsite treatment system or to the sanitary sewer.
D. Pest Control	• Follow manufacturers directions for application of pest control materials to site.

TABLE U–12.—GENERAL STORM WATER BMPS FOR THE FOOD AND KINDRED PRODUCTS PROCESSING SECTOR[i,ii,iii,iv]—Continued

Activity	BMPs
	• Time application for dry weather conditions. • Store partially full containers indoors or undercover. • Apply insecticides during breeding months. • Protect rat bait houses from storm water.
E. Improper Connections to the Storm Sewer ...	• Perform smoke or dye testing to determine if interconnections exist between the sanitary and storm sewers. • Plug all floor drains leading to storm sewers. • Update facility schematics to accurately reflect all plumbing connections.
F. General	• Offer employee incentives so that employees will develop cost effective, worker efficient BMPs. • Request outside firm to conduct a storm water inspection/audit. • Inspect material transfer lines/connections for leaks or signs of wear and repair or replace as necessary.

[i] "Standard Handbook of Environmental Engineering," Corbitt, Robert A., McGraw-Hill, Inc., 1990.
[ii] Air Pollution Engineering Manual, Air and Waste Management Association, Edited by Anthony J. Buonicore and Wayne T. Davis, Van Nostrand Reinhold, New York, 1992.
[iii] "Environmental Engineering and Sanitation," Fourth Edition, Salvato, Joseph A., John Wiley & Sons, Inc., 1992.
[iv] Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices (EPA 832–R–92–006), EPA, Office of Water, September 1992.

TABLE U–13.—SPECIFIC STORM WATER BMPS FOR THE FOOD AND KINDRED PRODUCTS PROCESSING SECTOR[i,ii,iii,iv]

Activity	BMPs
A. Meat Products:	
• Animal Holding Pens (beef, chicken)	• Inspect area around animal holding pens. • Enclose/cover fowl hanging area. • Enclose/cover the animal holding pens. • Grade the areas around the animal holding pens to ensure storm water "runs off" and not "on" to the holding pen. • Train employees on proper material (i.e., hide, hair, feathers, animal parts) clean-up procedures around and within the animal holding pens. • Store animal manure and other materials from clean-up activities in appropriate containers in an enclosed/covered area. • Area for trailers holding empty bird cages should have storm water runon/runoff controls in place. • Use mechanical sweepers around site to clean up fugitive feathers, dust, and manure.
B. Dairy Products:	
• Packaged Dairy Products (spoiled and broken product containers).	• Inspect area around aged/spoiled dairy products. • Store aged/spoiled dairy products in enclosed area. • Train employees on proper disposal methods for all aged/spoiled dairy products. • Ensure that all aged/spoiled product (e.g., bottles, cartons, plastic containers) are disposed of in a proper manner (bagged, covered).
C. Canned Frozen and Preserved Fruits, Vegetables, and Frozen Specialties:	
• Fruit and Vegetable Storage and Disposal.	• Inspect all fruit and vegetable storage areas. • Store all fruits and vegetables in appropriate containers (e.g., bins, bushels, baskets, buckets) and in enclosed/covered areas. • Store empty fruit and vegetable containers in an enclosed/covered area. • Train employees on proper handling/disposal methods for fresh/rotten fruits and vegetables. • Consider air emission control systems for all cooking processes to reduce particulate matter. • Minimize fruit and vegetable storage time outdoors.
D. Grain Mills	
• Grain Handling, Storage and Mixing	• Inspect the general area around the grain storage. • Store all grain in appropriate containers (e.g., silos, hoppers) in an enclosed/covered area. • Train employees on grain handling procedures. • Consider a vacuum control system in all grain mixing areas.
E. Bakery Products:	
• Ingredient Storage and Mixing	• Inspect ingredient storage areas. • Store all ingredients (e.g., corn sweeteners, flour, shortening, syrup, vegetable oils) in appropriate containers (e.g., tanks, drums, bags) in an enclosed/covered area.
• Baking Process	• Remove flour/oil dust accumulation around ventilation exhaust systems. • Install an air emission control system for all baking processes to reduce particulate matter.
F. Sugar and Confectionery:	
• Sugar Handling	• Consider a vacuum control system in all granular and powdered processing areas.
G. Fats & Oils:	

TABLE U–13.—SPECIFIC STORM WATER BMPS FOR THE FOOD AND KINDRED PRODUCTS PROCESSING SECTOR[i,ii,iii,iv]—Continued

Activity	BMPs
• Fats and Oils Storage and Disposal	• Inspect all Fats and Oils storage areas. • Store all fats and oils, (e.g., butcher shop materials, hair, hide, tallow, bone meal, and offal) in enclosed/covered areas. • Ensure all fats and oils are physically contained.
H. Beverages: Material Storage and Mixing	• Ensure grain is stored in enclosed/covered area. • Consider an air emission control system for all grain handling and brewing processes. • Protect reusable beverage containers that are stored outdoors from storm water contact.

[i] "Standard Handbook of Environmental Engineering," Corbitt, Robert A., McGraw-Hill, Inc., 1990.
[ii] Air Pollution Engineering Manual, Air and Waste Management Association, Edited by Anthony J. Buonicore and Wayne T. Davis, Van Nostrand Reinhold, New York, 1992.
[iii] "Environmental Engineering and Sanitation," Fourth Edition, Salvato, Joseph A., John Wiley & Sons, Inc., 1992.
[iv] Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices (EPA 832–R–92–006), EPA, Office of Water, September 1992.

5. Storm Water Pollution Prevention Plan Requirements

All facilities included in this section of today's permit must prepare and implement a storm water pollution prevention plan. The establishment of a pollution prevention plan requirement reflects EPA's decision to allow operators of food and kindred products processing facilities to utilize BMPs as the BAT/BCT level of control for the storm water discharges covered by this section. The requirements included in pollution prevention plans provides a flexible framework for the development and implementation of site-specific controls to minimize pollution in storm water discharges. This approach is consistent with the approach used in the baseline general permits finalized on September 9, 1992 (57 FR 41236).

EPA believes that pollution prevention is the most effective approach for controlling contaminated storm water discharges from food and kindred products processing facilities. Pollution prevention plans allow the operator of a facility to select BMPs based on site-specific considerations such as: facility size; climate; geographic location; hydrogeology; the environmental setting of each facility; and volume and type of discharge generated. This flexibility is necessary because each facility will be unique in that the source, type and volume of contaminated surface water discharges will differ from site to site.

There are two major objectives to a pollution prevention plan: (1) To identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from a facility, and (2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity from a facility.

Specific requirements for a pollution prevention plan for food and kindred products processing facilities are described below. These requirements must be implemented in addition to the baseline pollution prevention plan provisions discussed previously.

a. Contents of the Plan. Storm water pollution prevention plans are intended to aid operators of food and kindred products processing facilities to evaluate all potential pollution prevention sources at a site, and assist in the selection and implementation of appropriate measures designed to prevent, or control, the discharge of pollutants in storm water runoff. EPA has developed guidance entitled "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices," EPA, 1992 (EPA 832–R–92–006), to assist permittees in developing and implementing pollution prevention measures.

(1) Pollution Prevention Team. As a first step in the process of developing and implementing a storm water pollution prevention plan, permittees must identify a qualified individual or team of individuals to be responsible for developing the plan and assisting the facility or plant manager in its implementation. When selecting members of the team, the plant manager should draw on the expertise of all relevant departments within the plant to ensure that all aspects of plant operations are considered when the plan is developed. The plan must clearly describe the responsibilities of each team member as they relate to specific components of the plan. In addition to enhancing the quality of communication between team members and other personnel, clear delineation of responsibilities will ensure that every aspect of the plan is addressed by a specified individual of group of individuals. Pollution Prevention Teams may consist of one individual where appropriate (e.g., in certain small businesses with limited storm water pollution potential).

(2) Description of Potential Pollutant Sources. Each storm water pollution prevention plan must describe activities, materials, and physical features of the facility that may contribute to storm water runoff or, during periods of dry weather, result in dry weather flows. This assessment of storm water pollution prevention will support subsequent efforts to identify and set priorities for necessary changes in materials, materials management practices, or site features, as well as aid in the selection of appropriate structural and nonstructural control techniques. Plans must describe the following elements:

(a) Drainage—The plan must contain a map of the site that shows the pattern of storm water drainage, structural and nonstructural features that control pollutants in storm water runoff, and process wastewater discharges, surface water bodies (including wetlands), places where significant materials are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. The map must also show areas where the following general activities take place: loading/unloading areas; vehicle fueling; vehicle and equipment maintenance and/or cleaning areas; waste treatment, storage, and disposal locations; and liquid storage tanks. In addition, as identified in the Part 1 Storm Water Group Applications, the following areas are also potential sources of pollutants in storm water from food and kindred products processing facilities: vents and stacks from cooking and drying operations and

dry product vacuum transfer lines; animal holding pens; spoiled product and broken product container storage areas; and significant dust or particulate generating areas. The site map must identify all monitoring locations that must be sampled as part of the monitoring requirements of the permit. (Monitoring and Reporting Requirements). This will allow for a direct comparison of the industrial activities exposed to storm water with the analytical data for storm water discharges from these areas. The site map must also indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls (e.g. storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

(b) Inventory of Exposed Materials—Facility operators are required to carefully conduct an inspection of the site and related records to identify significant materials that are or may be exposed to storm water. The inventory must address materials that within 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit have been handled, stored, processed, treated, or disposed of in a manner to allow exposure to storm water. Findings of the inventory must be documented in detail in the pollution prevention plan. At a minimum, the plan must describe the method and location of onsite storage or disposal; practices used to minimize contact of materials with rainfall and runoff; existing structural and nonstructural controls that reduce pollutants in storm water runoff; existing structural controls that limit process wastewater discharges; and any treatment that the runoff receives before it is discharged to surface waters or a separate storm sewer system. The description must be updated whenever there is a significant change in the types or amounts of materials, or material management practices, that may affect the exposure of materials to storm water.

(c) Significant Spills and Leaks—The plan must include a list of any significant spills and leaks of toxic or hazardous pollutants that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Section 311 of CWA (see 40 CFR 110.10 and 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR 302.4). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements and releases of materials that are not classified as oil or a hazardous substance.

(d) Non-storm Water Discharges—Each pollution prevention plan must include a certification, signed by an authorized individual, that discharges from the site have been tested or evaluated for the presence of non-storm water discharges. The certification must describe possible significant sources of non-storm water, the results of any test and/or evaluation conducted to detect such discharges, the test method or evaluation criteria used, the dates on which tests or evaluations were performed, and the onsite drainage points directly observed during the test or evaluation. Pollution prevention plans must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water discharge.

(e) Sampling Data—Any existing data on the quality or quantity of storm water discharges from the facility must be described in the plan. The description should include a discussion of the methods used to collect and analyze the data. Sample collection points should be identified in the plan and shown on the site map. Also, the plan should identify the types of storm water discharges (i.e., applicable sectors) being sampled at each outfall.

(f) Summary of Potential Pollutant Sources—The description of potential pollutant sources culminates in a narrative assessment of the risk potential that the industrial activities, materials, and physical features of the site pose to storm water quality. Any such activities, materials, or features must be addressed by the measures and controls subsequently described in the plan. In conducting the assessment, the facility operator must consider the following activities: loading/unloading areas; vehicle fueling; vehicle and equipment maintenance and/or cleaning areas; waste treatment, storage, and disposal locations; liquid storage tanks; vents and stacks from cooking and drying operations and dry product vacuum transfer lines; animal holding pens; out-of-date/spoiled product storage areas; and significant dust or particulate generating areas. The assessment must list any significant pollution sources at the site and identify the pollutant parameter or parameters (e.g., biochemical oxygen demand, oil and grease, etc.) associated with each source.

In addition to food and kindred products processing related industrial activities, the plan must also describe application and storage of pest control chemicals (e.g., rodenticides, insecticides, fungicides, etc.) used at the facility, including a discussion of application and storage procedures.

(3) Measures and Controls. The permittee must evaluate, select, and describe the pollution prevention measures, BMPs, and other controls that will be implemented at the facility. EPA emphasizes the implementation of pollution prevention measures and BMPs that reduce possible pollutant discharges at the source. Source reduction measures include, among others, preventative maintenance, chemical substitution, spill prevention, good housekeeping, training, and proper materials management. Where source reduction is not appropriate, EPA supports the use of source control measures and BMPs such as material segregation or covering, water diversion, and dust control. If source reduction or source control are not possible, recycling or treatment are the remaining alternatives. Recycling allows the reuse of storm water while treatment lowers pollutant concentrations prior to discharge. Since the majority of food and kindred products processing is conducted indoors, the activities identified above are geared towards only those activities that may contribute pollutants to storm water. Also because of the relatively few activities that are conducted outdoors within this sector, pollution prevention measures, BMPs, and other controls should be relatively few and easy for any given permittee. Also, these measures are the most appropriate means to reduce pollutant loadings to storm water (as opposed to pollutant limitations) because of the relative ease and the significant reductions in pollutant loads that can be realized. The permittee should consider the general storm water BMPs for the food and kindred products processing sector identified in Table U–12 and the subsector specific BMPs provided in Table U–13 when assessing the need for storm water measures and controls.

The pollution prevention plan must discuss the reasons each selected control or practice is appropriate for the facility and how each of the potential pollutant sources will be addressed. The plan must also identify the times during which each control or practice will be implemented. Also, the plan should summarize the effects that the controls or practices will have on storm water discharges from the site. At a minimum, the measures and controls must address the following components:

(a) Good Housekeeping—Permittees must describe protocols established to reduce the possibility of mishandling chemicals or equipment and training employees in good housekeeping techniques. Specifics of this plan must be communicated to appropriate plant personnel.

(b) Preventative Maintenance—Permittees are required to develop a preventative maintenance program that includes regular inspections and maintenance of storm water BMPs. The purpose of the inspections is to assess the effectiveness of the storm water pollution prevention plan. The inspections allow facility personnel to monitor the success or failure of elements of the plan on a regular basis. The use of an inspection checklist should be considered. A checklist ensures that all required areas are inspected, as well as providing documentation for the recordkeeping requirement.

(c) Spill Prevention and Response Procedures—Permittees are required to identify appropriate material handling procedures, storage requirements, containment or diversion equipment, and spill cleanup procedures that will minimize the potential for spills and in the event of a spill enable proper and timely response. Areas and activities that typically pose a high risk for spills at food and kindred products processing facilities include raw material unloading and product loading areas, material storage areas, and waste management areas (e.g., dumpsters, compactors). These activities and areas, and their accompanying drainage points, must be described in the plan.

(d) Inspections—In addition to the comprehensive site evaluation required under XI.U.6.b. (Comprehensive Site Compliance Evaluation) of this section of today's permit, qualified personnel must inspect designated equipment and areas of the facility at appropriate intervals as specified in the plan. Areas that are found to possibly contribute pollutants to storm water are identified in this section of today's permit as requisite areas for periodic scheduled inspections. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections must be maintained. Inspections shall be carried out by qualified facility personnel at least once each year.

(e) Employee Training—Permittees must describe a program for informing personnel at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as good housekeeping, materials management, and spill response procedures. A schedule for conducting this training must be provided in the plan. Where appropriate, contractor personnel also must be trained in relevant aspects of storm water pollution prevention. EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan.

(f) Recordkeeping and Internal Reporting Procedures—Permittees must describe procedures for developing and retaining records on the status and effectiveness of plan implementation. The plan must address spills, monitoring, and BMP inspection and maintenance activities. Ineffective BMPs must be reported and the date of their corrective action noted.

(g) Sediment and Erosion Control—Permittees must identify areas that, due to topography, activities, soils, cover materials, or other factors have a high potential for significant soil erosion. Measures to limit erosion in these areas must be identified.

(h) Management of Runoff—Permittees must provide a narrative assessment of traditional storm water management practices that divert, infiltrate, reuse, or otherwise manage storm water runoff so as to reduce the discharge of pollutants. Based on the assessment, the permittee must identify practices that are reasonable and appropriate for the facility and must describe the particular pollutant source area or activity to be controlled by each storm water management practice. Reasonable and appropriate practices must be implemented and maintained.

b. Comprehensive Site Compliance Evaluation. The storm water pollution prevention plan must describe the scope and content of comprehensive site evaluations that qualified personnel will conduct to (1) confirm the accuracy of the description of potential pollution sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of this section of today's permit. Comprehensive site compliance evaluations must be conducted at least annually for food and kindred products processing facilities. The individual or individuals who will conduct the evaluation must be identified in the plan and should be members of the pollution prevention team. Evaluation reports must be retained for at least 3 years after the date of the evaluation. Where compliance evaluation schedules overlap with inspections required under XI.V.3.a.(3)(d) of this section, the compliance evaluation may be conducted in place of one such inspection.

Based on the results of each evaluation, the description of potential pollution sources, and measures and controls, the plan must be revised as appropriate within 2 weeks after each inspection. Changes in the measures and controls must be implemented on the site in a timely manner, and never more than 12 weeks after completion of the evaluation.

6. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. EPA believes that food and kindred products facilities may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan and to characterize the discharge for potential environmental impacts, the permit requires grain mill products facilities and fats and oils products facilities to collect and analyze samples of their storm water discharges for the pollutants listed in Tables U–14 or U–15. The pollutants listed in Tables U–14 or U–15 were found to be above benchmark levels for a significant portion of facilities in these subsectors that submitted quantitative data in the group application process. Because these pollutants have been reported at benchmark levels from grain mill products and fats and oils products facilities, EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, zinc is above the bench mark concentrations for the grain mill and beverage products subsectors. After a review of the nature of industrial activities and the significant materials exposed to storm

water described by facilities in these subsectors, EPA has determined that the higher concentrations of zinc are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require grain mill or beverage products facilities to conduct analytical monitoring for this parameter.

At a minimum, storm water discharges from grain mill product and fats and oils product facilities must be monitored quarterly during the second year of permit coverage. Samples must be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Tables U–14 or U–15, and applicable to that industrial subsector. If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE U–14.—GRAIN MILL PRODUCTS MONITORING REQUIREMENTS

Pollutant of concern	Cut-off concentration
Total Suspended Solids (TSS) ...	100 mg/L

TABLE U–15.—FATS AND OILS MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Biochemical Oxygen Demand (BOD).	30 mg/L
Chemical Oxygen Demand (COD).	120 mg/L
Nitrate Plus Nitrite Nitrogen	0.68 mg/L
Total Suspended Solids	100 mg/L

If the average concentration for a parameter is less than or equal to the value listed in Tables U–14 or U–15, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Table U–14 or U–15, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit.

TABLE U–16.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table U–14 or U–15, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table U–14 or U–15, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table U–14 or U–15. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall, or a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph (*c*) below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*c*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Such permittees must

submit monitoring results on four separately signed Discharge Monitoring Report Forms to the Director. For facilities conducting monitoring beyond the minimum quarterly requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

f. Quarterly Visual Examination of Storm Water Quality. All food and kindred products facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted under paragraph (3) below. The examination(s) must be made at least once in each of the following 3-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(*1*) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term.

(*2*) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(*3*) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(*4*) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(*5*) EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and effects on the management practices that are included in the plan.

V. Storm Water Discharges Associated With Industrial Activity From Textile Mills, Apparel, and Other Fabric Product Manufacturing Facilities

1. Discharges Covered Under This Section

Special permit conditions have been developed for textile mills, apparel, and other fabric product manufacturing facilities. The conditions in this section apply to storm water discharges from textile related operations located at any of the facilities covered under the storm water application regulations [40 Code of Federal Regulations (CFR) 122.26] and applying for coverage under this permit.

The storm water application regulations define storm water discharges associated with industrial activity at 40 CFR 122.26(b)(14). Category (xi) of this definition includes facilities under Standard Industrial Classifications 22 and 23. The conditions in this section apply to storm water discharges from the Textile Mill Products, of and regarding facilities and establishments engaged in the preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage, the manufacturing of broadwoven fabrics, narrow woven fabrics, knit fabrics, and carpets and rugs from yarn; processes involved in the dyeing and finishing of fibers, yarn fabrics, and knit apparel; the integrated manufacturing of knit apparel and other finished articles of yarn; the manufacturing of felt goods (wool), lace goods, nonwoven fabrics, miscellaneous textiles, and other apparel products.

Textile Mill Product facilities (SIC major group 22) typically receive and prepare fibers, transform these materials into fabric or related products, and finish the materials before packaging. Apparel facilities (SIC major group 23) typically receive woven or knitted fabric for cutting, sewing, and packaging. For more information on the industrial activities at textile facilities, consult EPA's "Development Document for Effluent Limitations Guidelines and Standards for the Textile Mills" (Document EPA 440/1–79/0226, October 1979).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Pollutants in Storm Water Discharges Associated with the Manufacture of Textile Products

Based on group application information and data, and the "Development Document for Effluent Limitation Guidelines and Standards for the Textile Mills," EPA has identified the storm water pollutants and sources resulting from textile manufacturers in Table V–1.

TABLE V–1.

Activity	Pollutant source	Pollutant
Raw material storage and handling	Wool, cotton, synthetics, rayon, other fibers, coal/wood piles, fuels, oil, lubricants.	TSS, pH, oil and grease, COD, BOD_5, lead, chromium, benzene.
Storage and handling of materials for dyeing	Dyes, dye preservatives, pigments	Copper, phenols, lead, chromium, zinc, aluminum, acids.
Storage and handling of materials for scouring and cleaning.	Wool, scouring agents, detergents	BOD_5, COD, TSS, oil and grease, sulfides, phenols, pH, chromium.
Storage and handling of materials for bleaching, printing, finishing, and other activities.	Dyes, bleaches, detergents, finishing agents, printing products.	BOD_5, COD, TSS, oil and grease, sulfides, phenols, pH, chromium, hydrogen peroxide, acids.

Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the textile mills, apparel, and other fabric product manufacturing industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: textile mills and apparel and other finished products made from fabrics. Table V–2 below includes data for the eight pollutants that all facilities were required to monitor for under Form 2F. The table also lists those parameters that EPA has determined may merit further monitoring. A table has not been included for the apparel and other finished products made from fabrics subsector because less than 3 facilities submitted data.

TABLE V–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY TEXTILE MILL PRODUCTS FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	51	49	96	93	10.4	9.53	0.0	0.0	50.0	50.0	7.0	7.0	29.0	26.02	51.1	43.2
COD	51	49	96	93	61.9	46.25	0.0	0.0	306.0	212.0	41.0	36.0	194.0	132.1	365.0	228.8
Nitrate + Nitrite Nitrogen	51	49	96	93	1.35	1.22	0.00	0.0	71.00	55.0	0.30	0.34	3.17	2.71	6.80	5.74
Total Kjeldahl Nitrogen	51	49	96	93	1.98	1.71	0.00	0.0	7.40	8.30	1.64	1.50	5.54	4.38	9.03	6.76
Oil & Grease	51	N/A	97	N/A	3.2	N/A	0.0	N/A	32.0	N/A	0.0	N/A	17.8	N/A	35.9	N/A
pH	48	N/A	91	N/A	N/A	N/A	4.0	N/A	10.2	N/A	6.9	N/A	9.1	N/A	10.4	N/A
Total Phosphorus	51	49	96	93	0.28	0.29	0.00	0.0	11.00	11.0	0.12	0.11	0.66	0.60	1.29	1.30
Total Suspended Solids	51	49	96	93	126	75	0	0.0	1889	1675	38	20	591	251	1860	694
Zinc, Total	7	6	16	14	0.328	0.298	0.000	0.070	1.060	0.830	0.19	0.21	1.079	0.769	2.062	1.269

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.

[ii] Composite samples.

3. Options for Controlling Pollutants

Table V–3 lists some BMPs which may be effective in limiting the amount of pollutants in storm water discharges from textile facilities. Many of the BMPs suggested focus on the process aspect of textile manufacturing. Although processes are typically conducted indoors, EPA believes that changes in the manufacturing process, such as a switch to less toxic chemicals, can lessen the amount of contamination in storm water discharges. The BMPs listed are not necessarily required to be implemented. Rather, BMPs should be chosen based on the specific nature of the storm water discharges at each textile facility and implemented as appropriate. Based on part 1 information, several of the BMPs suggested are already in place at many of the facilities. Part 1 submittals indicate that diking or other types of diversion occur at 55 percent of the sampling facilities. Nineteen percent of the sampling facilities noted that they use some form of covering as a BMP, and catch basins are in place at 45 percent. In addition, 64 percent of the facilities designated as samplers in part 1 information reported they had a Spill Prevention Control and Countermeasure Plan in place, while 56 percent used swales, 29 percent had vegetation strips, and 12 percent utilized ponds to collect storm water.

TABLE V–3.—COMMON BEST MANAGEMENT PRACTICES FOR TEXTILE FACILITIES

Activity	BMPs
Preparation (e.g., Desizing and Scouring)	Waste stream reuse for typical bleach unit processing; recycle J-box or kier drain wastes to saturator. Make use of countercurrent washing. Use washer waste from scour operation for batch scouring.
Dyeing	Perform analysis of spent dye baths for residual materials. Where feasible, obtain background information and data necessary before making product substitutions. This includes OSHA form 20 data and technical data. Be aware of potential problem chemicals, such as aryl phenol ethoxylates, chlorinated aromatics, chlorinated aromatics, and metals. Employ pad batch dyeing to eliminate the need for salts and chemical specialties from the dyebath, with associated reduction in cost and pollution source reduction.
Finishing	Reuse residual portions of finish mixes as much as possible by adding back to them the required components to make up the next mix. Return noncontact cooling water and stream condensates to either a hot water holding tank or a clear well. If neither is available, segregate waste streams from sources which do not generally require treatment from other waste streams that do require treatment.
General Water Conservation Techniques	Use "low liquor ratio" dyeing machines where practicable. Use of foam processing (mercerizing, bleaching, dyeing, finishing) where practicable as a water conservation process.
Chemical Screening and Inventory Control	Employ prescreening practices to evaluate and consider chemicals on a wide range of environmental and health impact criteria. Develop and perform a routine raw material quality control program. Review and develop procedures for source reduction of metals. Promptly transfer used fluids to the proper container; do not leave full drip pans or other open containers around the shop. Empty and clean drip pans and containers. Do not pour liquid waste down floor drains, sinks, or outdoor storm drain inlets. Plug floor drains that are connected to the storm or sanitary sewer; if necessary, install a sump that is pumped regularly. Inspect the maintenance area regularly for proper implementation of control measures. Train employees on proper waste control and disposal procedures
Material Handling: Bulk Liquid Storage and Containment.	Store permanent tanks in a paved area surrounded by a dike system which provides sufficient containment for the larger of either 10 percent of the volume of all containers or 110 percent of the volume of the largest tank. Maintain good integrity of all storage tanks. Inspect storage tanks to detect potential leaks and perform preventive maintenance. Inspect piping systems (pipes, pumps, flanges, couplings, hoses, valves) for failures or leaks. Train employees on proper filling and transfer procedures.
Material Handling: Containerized Material Storage.	Store containerized materials (fuels, paints, solvents, etc.) in a protected, secure location and away from drains. Store reactive, ignitable, or flammable liquids in compliance with the local fire code. Label all materials clearly. Identify potentially hazardous materials, their characteristics, and use. Control excessive purchasing, storage, and handling of potentially hazardous materials. Keep records to identify quantity, receipt date, service life, users, and disposal routes. Secure and carefully monitor hazardous materials to prevent theft, vandalism, and misuse of materials. Educate personnel for proper storage, use, cleanup, and disposal of materials. Provide sufficient containment for outdoor storage areas for the larger of either 10 percent of the volume of all containers or 110 percent of the volume of the largest tank. Use temporary containment where required by portable drip pans. Use spill troughs for drums with taps.
Material Handling: Designated Material Mixing Areas.	Mix solvents in designated areas away from drains, ditches, and surface waters. If spills occur, • Stop the source of the spill immediately • Contain the liquid until cleanup is complete • Deploy oil containment booms if the spill may reach the water

TABLE V–3.—COMMON BEST MANAGEMENT PRACTICES FOR TEXTILE FACILITIES—Continued

Activity	BMPs
	• Cover the spill with absorbent material • Keep the area well ventilated • Dispose of cleanup materials properly • Do not use emulsifier or dispersant.

Sources: Smith, Brent, "Identification and Reduction of Pollution Sources in Textile Wet Processing." Department of Textile Chemistry, North Carolina State University, Raleigh, NC, 1986.
Smith, Brent, "Identification and Reduction of Toxic Pollutants in Textile Mill Effluent." Department of Textile Chemistry, North Carolina State University, Raleigh, NC, 1992.
NPDES Storm Water Group Applications—Part 1. Received by EPA March 18, 1991 through December 31, 1992.

4. Special Conditions

There are no additional requirements beyond those described in Part VI.B of this fact sheet.

5. Storm Water Pollution Prevention Plan Requirements

The permit conditions that apply to storm water discharges from textile mills, apparel and other fabric product manufacturing facilities are, in part, established upon the basic requirements in the front of this fact sheet. The following discussion addresses only those conditions that may differ from the common pollution prevention plan provisions discussed previously.

a. Contents of the Plan

(1) Description of Potential Pollutant Sources. Under the description of potential pollutant sources in the storm water pollution prevention plan requirements, permittees are required to include processing areas, loading/unloading areas, treatment, storage, and waste disposal areas, liquid storage tanks, fueling areas, on a site facility map. EPA believes that this is appropriate since these areas may potentially be a significant source of pollutants to storm water.

(2) Measures and Controls. Under the description of measures and controls in the storm water pollution prevention plan requirements, this section requires that all areas that may contribute pollutants to storm water discharges shall be maintained in a clean, orderly manner. This section also requires that the following areas must be specifically addressed:

(a) Material Storage Areas—All stored and containerized materials (fuels, petroleum products, solvents, dyes, etc.) must be stored in a protected area, away from drains and clearly labeled. The plan must describe measures that prevent or minimize contamination of storm water runoff from such storage areas. The facility should specify which materials are stored indoors and must provide a description of the contaminant area or enclosure for those materials which are stored outdoors. Above ground storage tanks, drums, and barrels permanently stored outside must be delineated on the site map with a description of the appropriated containment measures in place to prevent leaks and spills. The facility may consider an inventory control plan to prevent excessive purchasing, storage, and handling of potentially hazardous substances. In the case of storage of empty chemical drums and containers, facilities should employ such practices as triple-rinsing containers. The discharge waters from such washings must be collected, contained, or treated, and facilities should identify where the discbarge will be released.

(b) Material Handling Area—The plan must describe measures that prevent or minimize contamination of the storm water runoff from materials handling operations and areas. The facility may consider the use of spill and overflow protection; covering fuel areas; covering and enclosing areas where the transfer of materials may occur. Where applicable, the plan must address the replacement or repair of leaking connections, valves, transfer lines and pipes that may carry chemicals, dyes, or wastewater.

(c) Fueling Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from fueling areas. The facility may consider covering the fueling area, using spill and overflow protection, minimizing runon of storm water to the fueling area, using dry cleanup methods, and/or collecting the storm water runoff and providing treatment or recycling.

(d) Above Ground Storage Tank Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from above ground storage tank areas. The facility must consider storage tanks and their associated piping and valves. The facility may consider regular cleanup of these areas, preparation of a spill prevention control and countermeasure program, providing spill and overflow protection, minimizing runon of storm water from adjacent facilities and properties, restricting access to the area, inserting filters in adjacent catch basins, providing absorbent booms in unbermed fueling areas, using dry cleanup methods, and permanently sealing drains within critical areas that may discharge to a storm drain.

EPA believes that the incorporation of management practices such as those suggested will substantially reduce the potential for these activities and areas to significantly contribute pollutants to storm water discharges. In addition, EPA believes that these requirements continue to provide the necessary flexibility to address the variable risk for pollutants in storm water discharges associated with different facilities. Further, many facilities will find that management measures that have already been incorporated into the facility's operation, such as the installation of overfill protection equipment and labelling and maintenance of used oil storage units, are already required under existing EPA programs and will meet the requirements of this section.

Under the preventive maintenance requirements, the plan specifically includes the routine inspection of sediment traps to ensure that solids will be intercepted and retained prior to entering the storm drainage system. Because of the nature of operations which occur at textile facilities, specific routine attention needs to be placed on the collection of solids.

Under the inspection requirements this section requires that, in addition to the comprehensive site evaluation required under Part IV of today's permit, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility, at a minimum, on a monthly basis.

The purpose of the inspections is to check on the implementation and effectiveness of the storm water pollution prevention plan. The inspections allow facility personnel to monitor the success or failure of elements of the plan on a regular basis. The use of an inspection checklist is

highly encouraged. The checklist will ensure that all required areas are inspected, as well as help to meet the record keeping requirements.

The permittee is required to identify at least annual dates for employee training. EPA requires that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan. Employee training must, at a minimum, address the following areas when applicable to a facility: use of reused/recycled waters; solvents management; proper disposal of dyes; proper disposal of petroleum products and spent lubricants; spill prevention and control; fueling procedures; and general good housekeeping practices. Employees, independent contractors, and customers must be informed about BMPs and be required to perform in accordance with these practices. Copies of BMPs and any specific management plans, including emergency phone numbers, shall be posted in the work areas. EPA, therefore, is requiring that employee training take place at least once a year to serve as: (1) Training for new employees; (2) a refresher course for existing employees; and (3) training for all employees on any storm water pollution prevention techniques recently incorporated into the plan.

6. Monitoring and Reporting Requirements

a. Monitoring Requirements. The regulatory modifications at 40 CFR 122.44 (i)(2) established on April 2, 1992, grant permit writers the flexibility to reduce monitoring requirements in storm water discharge permits. EPA has determined that the potential for storm water discharges to contain pollutants above benchmark levels, because of the industrial activities and materials exposed to precipitation, does not support sampling at facilities covered by this section of today's permit. Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, zinc is above the bench mark concentrations for the textile mills subsector. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in this subsector, EPA has determined that the higher concentrations of zinc are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require textile mills facilities to conduct analytical monitoring for this parameter. Based on a consideration of the BMPs typically used at these facilities, and generally low pollutant values from the application data, EPA believes that the pollution prevention plan with visual examinations of storm water discharges (see below) will help to ensure storm water contamination is minimized. Because permittees are not required to conduct analytical monitoring, they will be able to focus their resources on developing and implementing the pollution prevention plan.

b. Quarterly Visual Examination of Storm Water Quality. Textile mills, apparel, and other fabric product facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted under paragraph (3) below. The examination(s) must be made at least once in each of the following 3-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the observation data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will

provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

As discussed above, EPA does not believe that analytical monitoring is necessary for textile mills, apparel, and other fabric product manufacturing facilities. EPA believes that between quarterly visual examinations and site compliance evaluations potential sources of contaminants can be recognized, addressed, and then controlled with BMPs. In determining the monitoring requirements, EPA considered the nature of the industrial activities and significant materials exposed at these sites, and performed a review of data provided in Part 2 group applications.

W. Storm Water Discharges Associated With Industrial Activity From Wood and Metal Furniture and Fixture Manufacturing Facilities

1. Discharges Covered Under This Section

On November 16, 1990 (55 FR 47990), the U.S. Environmental Protection Agency (EPA) promulgated the regulatory definition of "storm water discharges associated with an industrial activity." This definition included point source discharges of storm water from eleven major categories of facilities, including facilities under Standard Industrial Classification (SIC) codes 2434 and 25. Part XI.W. of today's permit only covers storm water discharges associated with industrial activities from furniture and fixture manufacturing facilities. Furniture and fixture manufacturing facilities eligible for coverage under this section include facilities identified by the following SIC codes: wood kitchen cabinets (generally described by SIC code 2434); household furniture (generally described by SIC code 251); office furniture (generally described by SIC code 252); public buildings and related furniture (generally described by SIC code 253); partitions, shelving, lockers, and office and store fixtures (generally described by SIC code 254); and miscellaneous furniture and fixtures (generally described by SIC code 259).

Storm water discharges covered by this section include all discharges where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to precipitation and storm water runon. Storm water that does not come into contact with an industrial activity or a significant material are not subject to permitting according to 40 CFR 122.26. This section is not applicable to any discharge subject to effluent limitation guidelines. However, the storm water component of the unpermitted discharge may be included under this section.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Industry Profile

The manufacturing processes for furniture and fixture manufacturing facilities are not typically exposed to storm water. However, unloading operations and the storage of some raw materials, and waste products, may be exposed to precipitation. Because of the lack of industrial activities occurring outdoors and the necessity of keeping many of the raw materials dry, the primary sources of storm water pollutants originate from materials handling and waste management or disposal activities. Table W–1 lists potential pollutant source activities, and related pollutants associated with furniture and fixture manufacturing facilities. There are two primary types of furniture and fixture manufacturing facilities. The distinction is based on the primary raw material, wood or metal. The manufacturing processes and significant materials to produce wood and metal furniture or fixtures are not similar. However, these manufacturing activities and wood resources are not typically exposed to precipitation.

TABLE W–1.—Activities, Pollutant Sources, and Pollutants

Activity	Pollutant source	Pollutant
Wood Drying	Coal	TSS, pH, cadmium, arsenic.
	Saw Dust	TSS, COD, BOD_5, pH.
	Ash	TSS, pH.
Furniture Manufacturing	Sizing Operations	TSS, BOD_5, pH.
	Painting Operations	Lead, cadmium, COD.
	Gluing Operations	Solvents, COD, oil & grease.
	Used Rags	Solvents, COD, oil & grease.
	Processing materials unloading	Diesel fuel, gasoline, oil, TSS.
	Waste Material Transportation	TSS, BOD_5, pH.
	Treatment Facilities	Solvents, COD, oil & grease.
	Open Dumps	TSS, BOD_5, oil & grease, COD.
Other Activities	Air Emission Control Cleaning	TSS, pH, cadmium, lead, copper, zinc.

Source: Storm Water Group Applications, Parts 1 and 2.

Industrial activities occurring at furniture and fixture manufacturing facilities that pertain to the storm water rule include, "* * * but [are] not limited to, storm water discharges from industrial plant yards; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters (as defined at 40 CFR Part

401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials and intermediate and finished materials; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water" (40 CFR 122.26(b)(14)). The most common industrial activities at furniture and fixture manufacturing facilities include material handling sites and raw material storage areas.

Significant materials include, "* * * but [are] not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; * * * hazardous substances designated under Section 101(14) of CERCLA; any chemical facilities required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges" (40 CFR 122.26(b)(12)). Significant materials commonly found at furniture and fixture manufacturing facilities include: wood; saw dust; metals; petroleum-based products; solvents; detergents; and waste materials.

Manufacturers of furniture and fixtures are separated by the primary raw material (i.e., wood and metal). The primary raw materials, industrial processes, waste and by-products, and final products differ for the production of wood furniture and metal furniture. Within each subsector the number of industrial activities and corresponding significant materials and waste products may also vary. Presented below are brief descriptions of the industrial activities and significant materials associated with the manufacturing of wood and metal furniture and fixtures. Due to similarities in the production of furniture and fixtures within subsectors, industrial activities and significant materials are fairly uniform across this sector. Unique practices are noted.

a. Manufacturing of Wood Furniture and Fixtures. The process of manufacturing wood furniture begins with the delivery and storage of wood. There are three different raw wood materials; lumber, veneer, and particle board. Since the manufacturing processes are not typically exposed to storm water for this industry, some of the "industrial activities" described below may not be susceptible to storm water exposure. Significant materials and materials management practices do refer to those materials exposed to storm water, and to the subsequent management practices used to control storm water. Variations on exposure to industrial activities and significant materials are site-specific.

(1) Industrial Activities. Once delivered, raw lumber is allowed to air dry up to 1 year. After the lumber is sufficiently air dried it is then transported to a dry kiln for further drying. The lumber is kiln dried anywhere from 7 to 150 days. Once the lumber has been dried to a desired moisture content, the dried lumber is taken to the processing area. The remaining furniture manufacturing processes are all completed indoors. Manufacturers may also receive lumber that is already dried. Therefore, the manufacturers may not need to air or kiln dry the wood and proceed directly into the processing stage.

The dried lumber is run through planers, to create a smooth, preliminary working surface, and then cut to specified dimensions depending on the end use. The sized lumber is then taken through sanding and machining operations. Sanding produces a smooth, fine working surface. Machining can include boring, routing, lathe operations, mitre cutting, and finish cuts. From this point, each piece of wood is dedicated to a specific product.

Veneer is another raw material used in the production of furniture. In this process logs are placed in a steam vat to increase the moisture content of a log. The logs are turned on a lathe to peel off the veneer. The resulting veneer sheets are layered into stacks or "hacks." Moisture is removed from the hacks by kiln drying. After a desired moisture content has been achieved the hacks are disassembled. Veneer is frequently hot or cold pressed onto particle board or solid wood by utilizing adhesives.

Particle board is the third raw material incorporated into the manufacturing of wood furniture. The board is received, cut to size, and banded on all four edges with solid wood. The banding is accomplished in continuous, steam heated units utilizing adhesives. The panels are allowed to cool and then they are sanded. Particle board is frequently coated with veneer.

The products from the three raw materials may be combined during the machining and sanding step or during the final assembly of a furniture piece. The machining and sanding step may include: initial sizing of particle board, veneer, and lumber; laminating operations; and surface printing. Once all the pieces of a particular furniture item are manufactured and sized, assembly can begin. This process generally involves an assembly line routing with many different individuals and machines working together to build the unit.

The final step in creating an un-upholstered piece of furniture involves surface finishing. This process may involve many separate coats of stains, lacquers, sealers, and finishes to a single unit. This is the step where a uniform wood color and texture are given to each piece of furniture or furniture grouping.

Facilities that manufacture upholstered furniture may have all of the previously mentioned activities, or may purchase dried or sized materials from a manufacturer. Upholstered furniture manufacturers will transport, handle, store, and process natural and synthetic fibers used for the upholstery. After the wood component of an upholstered piece of furniture is assembled, the upholstery materials are cut, sized, stretched, and then attached to the frame. After the final inspection of a furniture piece, the unit is packaged and either stored temporarily onsite or immediately shipped to an offsite location.

(2) Significant Materials. The significant materials identified, in part 1 of the group applications, as exposed to storm water at wood furniture and fixture manufacturing facilities include: raw wood; sawdust; coal; kiln ash; solvent-based finishing materials and waste products; used rags; raw glue and waste materials; and petroleum-based products. While most of the raw wood material is stored outside, more valuable wood products (e.g., sheets of veneer, mahogany, etc.) and some composite wood products (e.g., particle board) may be stored inside or under cover.

b. Manufacturing of Metal Furniture and Fixtures. Many furniture and fixture manufacturing facilities build their furniture with metal as the primary raw material. However, some manufacturers combine wood and upholstered materials with a metal frame. Metal furniture manufacturing facilities may purchase wood pieces ready for assembly or they may have all the industrial activities of wood manufacturing facilities in addition to the metal manufacturing facilities. The industrial activities at metal furniture manufacturing facilities will be site-specific and depend upon the level of work necessary to shape and treat the delivered metal into a furniture piece.

(1) Industrial Activities. Facilities that manufacture metal household furniture conduct operations that include: machining and assembly, finishing, and temporary storage of finished products within an enclosed building. Cold roll steel is initially received and

temporarily stored within the manufacturing building. However, steel may be stored outside prior to use. The steel is cut to size, bent, and welded to design specifications to fabricate raw metal household furniture. Final grinding, sanding, finishing, spot welding, and painting are then completed. After the final inspection of a furniture piece, the unit is packaged and either stored temporarily onsite or immediately shipped to an offsite location.

(2) Significant Materials. The significant materials identified as exposed to storm water, in part 1 of the group applications, at metal furniture and fixture facilities include: metals; sawdust; solvent-based finishing materials and waste products; electroplating solutions and sludges; used rags; raw glue and waste materials; and petroleum-based products. Prior to manufacturing rolls of steel may be stored outdoors but will be brought indoors for manufacturing.

3. Pollutants in Storm Water Discharges Associated with Furniture and Fixtures Manufacturing Facilities

Few pollutants are expected in storm water discharges from the manufacturing of wood and metal furniture and fixtures because the majority of the industrial activities occur indoors. Pollutants may be present in storm water as a result of outdoor activities associated with the manufacturing of wood and metal furniture and fixture such as: material handling operations; waste disposal; raw material storage; and deposition of airborne particulate matter. In addition, sources of pollutants other than storm water, such as illicit connections, spills, and other improperly dumped materials, may increase the pollutant loadings discharged into waters of the United States.

Many of the part 2 group application data submittals did not identify individual site characteristics or sources of storm water pollutants which may be responsible for pollutant loadings.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at Wood and Metal Furniture and Fixture Manufacturing facilities as a whole and not subdivide this sector. Therefore, Table W–2 lists data for selected parameters from facilities in the Wood and Metal Furniture and Fixture Manufacturing sector. These data include the eight pollutants that all facilities were required to monitor for under Form 2F, as well as the pollutants that EPA has determined may merit further monitoring.

TABLE W–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY FURNITURE AND FIXTURES FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant sample type	No. of Facilities		No. of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	16	15	25	24	12.2	8.90	0.0	0.0	46.0	32.0	9.0	5.00	38.6	27.0	72.2	47.0
COD	16	15	25	24	96.0	76.3	0.0	0.0	300.0	240.0	80.0	72.5	231.9	187.6	358.4	290.0
Nitrate + Nitrite Nitrogen	16	15	25	24	1.73	1.51	0.00	0.0	12.00	10.0	0.90	0.68	6.11	5.1	12.97	11.1
Total Kjeldahl Nitrogen	16	15	25	24	4.37	4.40	0.00	0.60	40.00	35.0	1.70	1.35	10.70	9.57	30.39	16.00
Oil & Grease	16	N/A	25	N/A	1.8	N/A	0.0	N/A	33.0	N/A	0.0	N/A	19.1	N/A	45.0	N/A
pH	15	N/A	23	N/A	N/A	N/A	4.2	N/A	9.3	N/A	7.5	N/A	9.7	N/A	10.8	N/A
Total Phosphorus	16	15	25	24	0.27	0.26	0.00	0.0	1.10	1.30	0.20	0.19	0.76	0.76	1.30	1.35
Total Suspended Solids	16	15	25	24	188	143	8	2	881	900	130	81	1009	781	2740	2290
Zinc, Total	8	8	4	8	2.973	0.364	0.340	0.074	10.000	1.500	0.78	0.40	14.907	3.056	44.006	7.758

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

4. Options for Controlling Storm Water Pollutants.

Certain BMPs are implemented to prevent and/or minimize exposure of pollutants from industrial activities to storm water discharges. EPA believes the most effective BMPs for reducing pollutants in storm water discharges are exposure minimization practices. Exposure minimization practices lessen the potential for storm water to come into contact with pollutants. Good housekeeping practices ensure that facilities are sensitive to routine and nonroutine activities which may increase pollutants in storm water discharges. The BMPs which address good housekeeping and exposure minimization are easily implemented, inexpensive, and require little, if any, maintenance. BMP expenses may include construction of roofs for storage areas or other forms of permanent cover and the installation of berms/dikes. Other BMPs such as detention/retention ponds and filtering devices may be needed at these facilities because of the contaminant level in the storm water discharges.

Part 1 group application data indicate that few BMPs have been implemented at wood and metal furniture and fixture manufacturing facilities. The only BMPs identified in the part 1 applications include: closed tanks, drums, and metal boxes; and partial covering. The part 1 data submissions did not indicate the presence of any traditional BMPs, such as sedimentation and retention ponds, or diversion dikes. However, the group application process did not require a description, or identification, of traditional BMPs, only the identification of material management practices that limit the contact between storm water and significant materials.

Because BMPs described in the part 1 data are limited, EPA is providing an overview of supplementary BMPs for use at furniture and fixture manufacturing facilities. However, inclusion of a BMP cited does not preclude the use of other viable BMP options. Table W–3 summarizes BMP options as they apply to wood and metal furniture and fixture manufacturing facilities.

TABLE W–3.—STORM WATER BMPS FOR FURNITURE AND FIXTURE MANUFACTURING FACILITIES

Activity	Best management practices (BMPs)
Outdoor Unloading and Loading	Confine loading/unloading activities to a designated area. Perform all loading/unloading activities in a covered or enclosed area. Close storm drains during loading/unloading activities in surrounding areas.

TABLE W–3.—STORM WATER BMPS FOR FURNITURE AND FIXTURE MANUFACTURING FACILITIES—Continued

Activity	Best management practices (BMPs)
Outdoor Material Storage (including waste and particulate emission management).	Avoid loading/unloading materials in the rain. Inspect all containers prior to loading/unloading of any raw or spent materials. Berm, curb, or dike loading/unloading areas. Use dry clean-up methods instead of washing the areas down. Train employees on proper loading/unloading techniques. Confine storage of raw materials, parts, and equipment to designated areas. Train employees on proper waste control and disposal. Berm, curb, or dike any areas around tanks. Ensure that all containers are properly sealed and valves closed. Inventory all raw and spent materials. Inspect air emission control systems regularly, and repair or replace when necessary. Store wastes in covered, leak proof containers (e.g., dumpsters, drums). Store wastes in enclosed and/or covered areas. Ensure hazardous and solid waste disposal practices are performed in accordance with applicable Federal, State, and local requirements. Ship all wastes to offsite landfills or treatment facilities.

Sources: NPDES Storm Water Group Applications—Part 1. Received by EPA, March 18, 1991, through December 31, 1992, and EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.

Many of the BMPs identified in Table W–3 are reminders of good or preferred operating procedures that are intended to limit the exposure of significant materials and industrial activities to storm water. Facility operators should review their current operations and consider implementing these BMPs if they are applicable to the site in order to reduce storm water contamination.

Since none of the facilities within the wood and metal furniture and fixture manufacturing sector indicated the presence of traditional storm water management practices, EPA is requiring the participants in this sector to consider the implementation of storm water diversions and sediment control and collection structures.

Discharge diversions provide the first line of defense in preventing the contamination of discharges, and subsequent contamination of receiving waters of the United States. Discharge diversions are temporary or permanent structures installed to divert flow, store flow, or limit storm water runon and runoff.

These diversion practices have several objectives. First, diversion structures can be designed to prevent otherwise uncontaminated (or less contaminated) water from crossing disturbed areas or areas containing significant amounts of contaminated materials, where contact may occur between runon and significant materials. These source reduction measures may be particularly effective for preventing uncontaminated discharges from contacting exposed materials and/or reduce the flow across disturbed areas, thereby lessening the potential for erosion. Second, diversion structures can be used to collect or divert waters for later treatment, if necessary. The usefulness of these control measures are limited by such factors as the size of the area to be controlled and the type and nature of materials exposed and precipitation events.

Diversion dikes, curbs, and berms are temporary or permanent diversion structures that prevent runoff from passing beyond a certain point, and divert runoff away from its intended path. Dikes, curbs or berms may be used to surround and isolate areas of concern at wood and metal furniture manufacturing facilities, and divert flow around piles of significant materials in order to minimize or limit offsite discharges of contaminated storm water.

Sediment control and collection limits movement and retains sediments from being transported offsite. Several structural collection devices have been developed to remove sediment from runoff before it leaves the site. Several methods of removing sediment from site runoff involve diversion mechanisms previously discussed, supplemented by a trapping or storage device. Structural practices typically involve filtering diffuse storm water flows through temporary structures such as straw bale dikes, silt fences, brush barriers or vegetated areas.

However, structural practices require periodic removal of sediment to remain functional, for both temporary and permanent structures. As such, they serve as more active-type practices which may not be appropriate for permanent use at inactive mines. However, these practices may be effectively used as temporary measures during active operation and/or prior to the final implementation of permanent measures. Temporary structures include: plastic matting, plastic netting, and erosion control blankets; mulch-straw or wood chips; and compaction. Permanent sediment control and collection structures include: sediment/settling ponds; sediment traps or catch basins; and vegetated buffer strips.

5. Storm Water Pollution Prevention Plan Requirements

All facilities subject to this section must prepare and implement a storm water pollution prevention plan. The establishment of a pollution prevention plan requirement reflects EPA's decision to allow operators of furniture and fixture manufacturing facilities to utilize BMPs as the BAT/BCT level of control for the storm water discharges covered by this section. The requirements included in pollution prevention plans provide a flexible framework for the development and implementation of site-specific controls to minimize pollutants in storm water discharges. EPA believes that pollution prevention is the most effective approach for controlling contaminated storm water discharges from furniture and fixture manufacturing facilities. Pollution prevention plans allow the operator of a facility to select BMPs based on site-specific considerations such as: facility size; climate; geographic location; hydrogeology; the environmental setting of each facility; volume and type of discharge generated, and current BMPs. This flexibility is necessary because each facility will be unique in that the source, type, and volume of contaminated surface water discharges will differ from site to site.

There are two major objectives to a pollution prevention plan: (1) To identify sources of pollution potentially affecting the quality of storm water discharges associated with an industrial activity from a facility; and (2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity. Specific requirements for a pollution prevention plan for furniture and fixture manufacturing facilities are described below. These requirements must be implemented in addition to the pollution prevention plan provisions discussed previously, or any other industry-specific requirements to which the facility is subject. For example, facilities with coal piles must comply with the provisions for coal pile runoff, as well as the pollution prevention requirements for the furniture and fixture manufacturing industry.

a. Description of Potential Pollution Sources. Under the drainage requirements, the site map must show areas where the following activities take place, if applicable: fueling; vehicle and equipment maintenance and/or cleaning; loading and unloading; material storage (including tanks or other vessels used for liquid or waste storage); outdoor material processing; waste treatment, storage, or disposal; haul roads; access roads; and rail spurs. The site map must also indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls (e.g. storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

b. Measures and Controls. Following completion of the source identification and assessment phase, the permittee must evaluate, select, and describe the pollution prevention measures, BMPs, and other controls that will be implemented at the facility. The permittee must assess the applicability of the following categories of BMPs for their site: discharge diversions, drainage/storm water conveyance systems, runoff dispersions, and good housekeeping measures. In addition, BMPs include processes, procedures, schedules of activities, prohibitions on practices, and other management practices that prevent or reduce the discharge of pollutants in storm water runoff.

The pollution prevention plan must discuss the reasons each selected structural control or BMP is appropriate for the facility and how each will address the potential sources of storm water pollution. The plan also must include a schedule specifying the time or times during which each control or practice will be implemented. In addition, the plan should discuss ways in which the controls and practices relate to one another and, when taken as a whole, produce an integrated and consistent approach for preventing or controlling potential storm water contamination problems.

Permittees are also required to develop a preventive maintenance program that includes regular inspections and maintenance of storm water BMPs. The maintenance program requires periodic removal of debris from discharge diversions and conveyance systems. These activities should be conducted particularly during wet seasons. Permittees already controlling their storm water runoff with impoundments or sedimentation ponds must include the maintenance schedules for these ponds in the pollution prevention plan.

Under the inspection requirements of the pollution prevention plan, operators of furniture and fixture manufacturing facilities are required to conduct quarterly inspections. The inspections shall include: (1) An assessment of the integrity of storm water discharge diversions, conveyance systems, sediment control and collection systems, and containment structures; (2) visual inspections of vegetative BMPs to determine if soil erosion has occurred; and (3) visual inspections of material handling and storage areas and other potential sources of pollution for evidence of actual or potential pollutant discharges of contaminated storm water.

EPA believes that this quick and simple description will allow the permittee to assess the effectiveness of his/her plan on a regular basis at very little cost. The inspection will provide meaningful results upon which the facility may act quickly. The frequency of this inspection will also allow for timely adjustments to be made to the pollution prevention plan. If a BMP is found to be ineffective, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. The inspection is intended to be performed by facility staff. This hands on inspection will also enhance the staff's understanding of the storm water problems on that site and effects on the management practices that are included in the plan.

Under employee training, the permit does not specify the frequency, however, EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan.

Under the recordkeeping and internal reporting procedures of the pollution prevention plan, the permittee must describe procedures for developing and retaining records on the status and effectiveness of plan implementation. The plan must address spills, monitoring (if applicable), and BMP inspection and maintenance activities. Ineffective BMPs must be recorded and the date of their corrective action noted. According to the pollution prevention plan requirements, the permittee must evaluate the appropriateness of each storm water BMP that diverts, infiltrates, reuses, or otherwise reduces the discharge of contaminated storm water. In addition, the permittee must describe the storm water pollutant source area or activity (i.e., loading and unloading operations, raw material storage piles etc.) to be controlled by each storm water management practice.

6. Monitoring and Reporting Requirements

a. Monitoring Requirements. The regulatory modifications at 40 *CFR* 122.44 (i)(2) established on April 2, 1992, grant permit writers the flexibility to reduce monitoring requirements in storm water discharge permits. EPA has determined that the potential for storm water discharges to contain pollutants above benchmark levels, because of the industrial activities and materials exposed to precipitation, does not support sampling at facilities covered by this section of today's permit. Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, nitrate plus nitrite nitrogen and zinc are above the bench mark concentrations for the furniture and fixtures sector. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in this sector, EPA has determined that the higher concentrations of nitrate plus nitrite nitrogen and zinc are not likely to be caused by the industrial activity, but

may be primarily due to non-industrial activities on-site. Today's permit does not require furniture and fixtures facilities to conduct analytical monitoring for these parameters.

Based on a consideration of the nature of BMPs typically used at these facilities, and generally low pollutant values from the application data, EPA believes that the pollution prevention plan with visual examinations of storm water discharges (see below) will help to ensure storm water contamination is minimized. Because permittees are not required to conduct analytical monitoring, they will be able to focus their resources on developing and implementing the pollution prevention plan.

b. Quarterly Visual Examination of Storm Water Quality. Wood and metal furniture and fixture manufacturing facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted under paragraph (3) below. The examination(s) must be made at least once in each of the following 3-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the observation data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands on examination will enhance the staff's understanding of the storm water problems on that site and effects of the management practices that are included in the plan.

As discussed above, EPA does not believe that analytical monitoring is necessary for wood and metal furniture and fixture manufacturing facilities. EPA believes that between quarterly visual examinations and site compliance evaluations potential sources of contaminants can be recognized, addressed and then controlled with BMPs. In determining the monitoring requirements, EPA considered the nature of the industrial activities and significant materials exposed at these sites, and performed a review of data provided in Part 2 group applications.

X. Storm Water Discharges Associated With Industrial Activity From Printing and Publishing Facilities

1. Industry Profile

On November 16, 1990 (55 FR 47990) EPA promulgated the regulatory definition of "storm water discharge associated with industrial activity." This definition includes point source discharges of storm water from eleven categories of facilities, including "—category (xi) facilities classified as Standard Industrial Classification (SIC) code—27." Facilities eligible for coverage under this section include: book printing (SIC Code 2732); commercial printing, lithographic (SIC Code 2752); commercial printing, gravure (SIC Code 2754); commercial printing, not elsewhere classified (SIC Code 2759); and platemaking and related services (SIC Code 2796).

This section establishes special condition for storm water discharges associated with industrial activities at printing and publishing facilities. The SIC codes of these facilities are in category (xi) of the definition of storm water discharges associated with industrial activity. Storm water discharges from facilities in this category are only regulated where precipitation and storm water runon come into contact with areas associated with industrial activities, and significant materials. Significant materials include, but are not limited to,

raw materials, waste products, finished products, intermediate products, by-products, and other materials associated with industrial activities.

When an industrial facility, described by the above eligibility provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

The printing and publishing industry is composed of a heterogeneous collection of over 38,000 companies that range in size from a few employees to several thousand.[98] Some companies are involved in both printing and publishing, while others are exclusively one or the other. The industrial activities of these facilities are similar, but the finished products vary. The finished products include magazines, newspapers, books, and labels. The printing activities covered under this section occur strictly indoors, and are separated into distinct operations. They include book printing, commercial printing (lithographic and gravure), and platemaking for printing purposes. The lithographic printing operation, which is based on the premise that grease and water do not mix, consists of a printing plate or cylinder, ink, a blanket and paper. Areas on the printing plate which will be transferred are coated with grease, and the rest of the plate is kept moist with water. The ink adheres to the grease and is repelled by the water. The printing image is then transferred to a blanket, which is transferred to paper. The gravure printing process uses printing plates or cylinders, ink, and paper. In the gravure process, the image is engraved on the printing plate or cylinder, the ink is then picked up by the engraved cells and directly transferred to paper. Other printing methods include screen, letter press, and flexographic printing. In the platemaking process, plates are cut from metal (usually steel), formed, engraved with the image, and coated with copper sulfate or chromic acid. The plates are later used in the printing processes described above.

Aside from the specific printing activities, other types of industrial activities are shared by facilities covered under this section. For example, the majority of these facilities have outdoor material handling and storage activities, and share the same types of raw and waste materials.

The primary raw materials utilized by this industry group include paper (including wax paper and card stock at some facilities), printing inks (hydrocarbon based, solvent based), and solvents. Other raw materials include steel (for facilities which manufacture printing plates), toner, paints, lubricating fluids, fuels, coating materials, and adhesives/glues. The paper products are stored indoors because exposure to precipitation would destroy the quality. The other raw materials arrive at the facilities in drums and either remain in the drums or are stored in aboveground or underground tanks, depending on the facilities' space and primary activity. The outdoor storage areas for drums are sometimes covered, but when the drums are directly exposed to precipitation, the storage areas are diked. Within the facilities, drums are stored on wooden pallets or skids, which may become contaminated from spills of the stored materials. After use the pallets and skids are stored outside for disposal and have the potential to contaminate storm water discharges.

Both nonhazardous and hazardous wastes are produced from the printing process. Hazardous wastes including ink wastes, solvent wastes, and waste chromic and sulfuric acid. These wastes are generated in small quantities at some of the facilities within this industrial group. Solvent wastes result from cleaning of printing plates and metal cutting operations. Ink wastes are generated from the cleaning of printing plates and from excess ink used in printing. Chromic and sulfuric acid wastes are generated from facilities which manufacture and coat rotogravure printing plates.

Nonhazardous wastes from this industry group include waste paper, paper dust, scrap steel, and used wooden pallets. All of these waste materials have the potential to pollute storm water discharges.

Significant materials exposed to storm water at these facilities may include raw materials and waste materials. They include solvents (toluene, xylene, acetone, 1,1,1-trichloroethane), fuels (gasoline and diesel), inks, metal, lubricating oils, pallets, copper, chromium, acids (sulfuric and chromic), oil and grease, and waste paper. Some of these materials may be directly exposed to storm water, while others may be covered. Pollutants that may be associated with these materials include TSS, pH, heavy metals, oil and grease, and COD.

Material handling activities such as loading and unloading areas, and liquid transfer (solvents from outdoor storage tanks to facility) may be exposed to storm water discharges. Exposure of these areas to storm water may be minimized by covering of the shipping/receiving and liquid transfer areas.

For those facilities engaged in fueling and vehicle maintenance, gasoline and diesel fuel are frequently stored outdoors in aboveground storage tanks and drums. Most vehicles and equipment require oil, hydraulic fluids, antifreeze, and other fluids that may leak and contaminate storm water discharges.

2. Pollutants Found in Storm Water Discharges From Printing and Publishing Facilities

The impact of industrial activities on storm water discharges at printing and publishing facilities will vary. Factors at a site which influence the water quality include geographic location, hydrogeology, the industrial activities exposed to storm water discharges, the facility's size, the types of pollution prevention measures/best management practices in place, and the type, duration, and intensity of storm events. Taken together or separately, these factors determine how polluted the storm water discharges will be at a given facility. Additionally, pollutant sources other than storm water, such as illicit connections,[99] spills, and other improperly dumped materials, may increase the pollutant loading discharged into Waters of the United States. Table X–1 lists industrial activities that commonly occur at printing and publishing facilities, the pollutant sources at these facilities, and the pollutants associated with these activities. Table X–1 identifies heavy metals, oil and other parameters as potential pollutants associated with printing and publishing facilities.

[98] "Economic Analysis of Proposed Effluent Guidelines, Printing Industry." Office of Planning and Evaluation, EPA. August 1974.

[99] Illicit connections are contributions of unpermitted non-storm water discharges to storm sewers from any number of sources including improper connections, dumping or spills from industrial facilities, commercial establishments, or residential dwellings. The probability of illicit connections at facilities manufacturing transportation equipment, industrial or commercial machinery is low but it may be applicable at some operations.

TABLE X–1.—DESCRIPTION OF INDUSTRIAL ACTIVITIES, POTENTIAL POLLUTANT SOURCES, AND ASSOCIATED POLLUTANTS [i,ii,iii]

Activity	Pollutant source	Pollutant
Plate Preparation	using ink (lithography, letterpress, screen printing, flexography), etch baths, applying lacquer.	solvent, heavy metal, toxic waste ink with solvents chromium, lead.
Printing	using ink (lithography, letterpress, screen printing, flexography), gravure.	heavy metal waste (dust and sludge), ink—sludges with chromium or lead, ink—toxic wastes with metals, solvents.
Clean up	used plates: type, die, press blankets and rollers.	ink—toxic wastes with metals, solvents.
Stencil Preparation for Screen Printing	lacquer stencil film, photoemulsion, blockout (screen filler).	solvents, photographic processing wastes.
Material Handling: Transfer, Storage, Disposal	spills and leaks from material handling equipment.	fuel, oil, heavy metals.
	spills and leaks from aboveground tanks	fuel, oil, heavy metals, material being stored.
	solvents; trash; petroleum products	heavy metals, spent solvents, oil.
Photoprocessing	developing negatives and prints	heavy metals, spent solvents.

[i] EPA, Pollution Prevention Programs, Opportunities in Printing. Philadelphia, PA. October 1990.
[ii] University of Pittsburgh Trust, Center for Hazardous Materials Research Fact Sheet, Pollution Prevention: Strategies for the Printing Industry.
[iii] EPA, Resource Conservation and Recovery Act (RCRA) document, Does Your Business Produce Hazardous Waste as Many Small Businesses Do. Printing and Allied Industries, EPA/530–SW–90–027g, April 15, 1990.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at printing and publishing facilities as a whole and not subdivide this sector. Therefore, Table X–2 lists data for selected parameters from facilities in the printing and publishing sector. These data include the eight pollutants that all facilities were required to monitor for under Form 2F, as well as the pollutants that EPA has determined may merit further monitoring.

TABLE X–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY PRINTING AND PUBLISHING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of Facilities		No. of Samples		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	15	15	33	33	12.6	7.7	0.0	0.0	51.6	27.0	9.0	6.40	45.9	24.05	94.1	1.9
COD	15	15	33	33	84.5	45.97	0.0	0.0	239.0	171.0	49.0	40.0	241.5	203.0	[illegible]	432.1
Nitrate + Nitrite Nitrogen	15	14	27	26	1.18	1.22	0.00	0.0	5.60	5.30	0.75	0.82	3.46	3.25	5.14	5.40
Total Kjeldahl Nitrogen	15	15	33	33	3.01	1.78	0.00	0.0	10.00	5.70	1.50	1.06	11.61	5.64	25.09	10.65
Oil & Grease	15	N/A	33	N/A	10.7	N/A	0.0	N/A	98.0	N/A	1.0	N/A	51.1	N/A	148.7	N/A
pH	14	N/A	26	N/A	N/A	N/A	5.4	N/A	8.6	N/A	7.0	N/A	8.3	N/A	8.9	N/A
Total Phosphorus	15	15	33	33	0.34	0.33	0.00	0.0	1.30	2.10	0.16	0.13	1.34	1.26	3.03	2.84
Total Suspended Solids	16	15	33	33	86	29	0	0	660	104	30	26	445	121	1360	263

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

3. Options for Controlling Pollutants

In evaluating options for controlling pollutants in storm water discharges, EPA must achieve compliance with the technology-based standards of the Clean Water Act [Best Available Technology (BAT) and Best Conventional Technology)]. The Agency does not believe that it is appropriate to establish specific numeric effluent limitations or a specific design or performance standard in this section for storm water discharges associated with industrial activity from printing and publishing facilities to meet BAT/BCT standards of the Clean Water Act. Instead, this section establishes requirements for the development and implementation of site-specific storm water pollution prevention plans consisting of a set of Best Management Practices (BMPs) that are sufficiently flexible to address different sources of pollutants at different sites.

Certain BMPs are implemented to prevent and/or minimize exposure of pollutants from industrial activities to storm water discharges. EPA believes the most effective BMPs for reducing pollutants in storm water discharges are exposure minimization practices. Exposure minimization practices lessen the potential for storm water to come into contact with pollutants. Good housekeeping practices ensure that facilities are sensitive to routine and nonroutine activities which may increase pollutants in storm water discharges. The BMPs which address good housekeeping and exposure minimization are easily implemented, inexpensive, and require little, if any, maintenance. BMP expenses may include construction of roofs for storage areas or other forms of permanent cover and the installation of berms/dikes. Other BMPs such as detention/retention ponds and filtering devices may be needed at these facilities because of the contaminant level in the storm water discharges. The types of BMPs implemented will depend on the type of discharge, types and concentrations of contaminants, and the volume of the flow.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, geology/hydrology and the environmental setting of each facility, and volume and type of discharge generated. Each facility will be unique in that the source, type, and volume of contaminated storm water discharges will differ. In addition, the fate and transport of pollutants in these discharges will vary. EPA believes that

the management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with printing and publishing facilities.

Part 1 group application data indicate that BMPs have not been widely implemented at the representative sampling facilities. Less than 10 percent of the sampling subgroup reported that they store some materials indoors; less than 10 percent store hazardous wastes under roof; and less than 5 percent cover drums or have sealed drums. However, 45 percent of the subgroup utilize some type of covering; 45 percent implement good housekeeping practices; and over 40 percent have training on pollution prevention.

The measures commonly used to reduce pollutants in storm water discharges associated with printing and publishing facilities are generally simple and easy to implement. Table X–3 identifies best management practices (BMPs) associated with different activities that routinely occur at printing and publishing facilities.

TABLE X–3.—GENERAL STORM WATER BMPS FOR PRINTING AND PUBLISHING FACILITIES[i,ii,iii,iv]

Activity	Best management practices (BMPs)
Plate Preparation	use aqueous-developed lithographic plates or wipe-on plates.
Printing	use press wipes as long as possible before discarding or laundering; dirty ones for the first pass, clean ones for the second pass.
	squeeze or centrifuge solvent out of dirty rags.
	set up an in-house dirty rag cleaning operation if warranted or send to approved industrial laundries, if available.
	dedicated press for inks with hazardous pigments/solvents.
	segregate used oil from solvents or other materials.
	use water-based inks in gravure and flexographic printing process.
Clean up	label sinks as to proper disposal of liquids.
	keep equipment in good condition.
	use doctor blades and squeegees to remove as much ink as possible prior to cleaning with solvent and rags.
	control solvent use during equipment cleaning, use only what you need.
	designate special areas for draining or replacing fluids.
	substitute nontoxic or less toxic cleaning solvents.
	recover waste solvents onsite with batch distillation if warranted or utilize professional solvent recyclers.
	centralize liquid solvent cleaning in one location.
	have refresher courses in operating and safety procedures.
Stencil Preparation for Screen Printing	recapture excess ink from silkscreen process before washing the screen to decrease amount of ink used and cleaning emulsion used
Material Handling and Storage Areas	store containerized materials (fuels, paints, inks, solvents, etc.) in a protected, secure location and away from drains.
	store reactive, ignitable, or flammable liquids in compliance with the local fire code.
	identify potentially hazardous materials, their characteristics, and use.
	eliminate/reduce exposure to storm water.
	control excessive purchasing, storage, and handling of potentially hazardous materials.
	keep records to identify quantity, receipt date, service life, users, and disposal routessecure and carefully monitor hazardous materials to prevent theft, vandalism, and misuse of materials.
	educate personnel for proper storage, use, cleanup, and disposal of materials.
	maintain good integrity of all storage tanks.
	inspect storage tanks to detect potential leaks and perform preventive maintenance.
	provide sufficient containment for outdoor storage areas for the larger of either 10 percent of the volume of all containers or 110 percent of the volume of the largest tank.
	use temporary containment where required by portable drip pans.
	use spill troughs for drums with taps
	train employees on proper filling and transfer procedures
	inspect piping systems (pipes, pumps, flanges, couplings, hoses, valves) for failures or leaks.
	handle solvents in designated areas away from drains, ditches, and surface waters. Locate designated areas preferably indoors or under a shed.
	if spills occur,
	stop the source of the spill immediately.
	contain the liquid until cleanup is complete.
	deploy oil containment booms if the spill may reach the water.
	cover the spill with absorbent material.
	keep the area well ventilated.
	dispose of cleanup materials properly.
	do not use emulsifier or dispersant.

[i] EPA, Pollution Prevention Programs, Opportunities in Printing. Philadelphia, PA. October 1990.
[ii] University of Pittsburgh Trust, Center for Hazardous Materials Research Fact Sheet, Pollution Prevention: Strategies for the Printing Industry.
[iii] EPA, Resource Conservation and Recovery Act (RCRA) document, Does Your Business Produce Hazardous Waste as Many Small Businesses Do. Printing and Allied Industries, EPA/530–SW–90–027g, April 15, 1990.
[iv] NPDES Storm Water Group Applications—Part 1. Received by EPA March 18, 1991 through December 31, 1992.

4. Storm Water Pollution Prevention Plan Requirements.

EPA believes that pollution prevention is the most effective approach for controlling contaminated storm water discharges from printing and publishing facilities. The requirements included in the pollution prevention plan provide a flexible framework for the development and implementation of site-specific controls to minimize the pollutants in storm water discharges. This flexibility is necessary because each facility is unique in that the source, type, and volume of contaminated storm water discharge will vary from site to site.

Under today's permit, all facilities must prepare and implement a storm water pollution prevention plan. The pollution prevention plan requirement reflects EPA's decision to allow operators of printing and publishing facilities to utilize BMPs as the BAT/BCT level of control for the storm water discharges covered by this section. The pollution prevention plan requirements in this section are consistent with the general requirements presented in the front of this fact sheet, which are based on EPA's storm water general permits finalized on September 9, 1992 (57 FR 41236), and September 25, 1992 (57 FR 44438), for discharges in nonauthorized NPDES States.

There are two major objectives to a pollution prevention plan: 1) to identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from a facility; and 2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity from a facility.

Specific requirements for a pollution prevention plan for printing and publishing facilities are described below.

a. Contents of the Plan. Storm water pollution prevention plans are intended to aid operators of printing and publishing facilities to evaluate all potential prevention sources at a site, and assist in the selection and implementation of appropriate measures designed to prevent, or control, the discharge of pollutants in storm water runoff. EPA has developed guidance entitled Storm Water Management for Industrial Activities: "Developing Pollution Prevention Plans and Best Management Practices," EPA, 1992, (EPA 832–R–92–006) to assist permittees in developing and implementing pollution prevention measures.

(1) Description of Potential Pollutant Sources. Each storm water pollution prevention plan must describe activities, materials, and physical features of the facility that may contribute pollutants to storm water runoff or, during periods of dry weather, result in dry weather flows. This assessment of potential storm water pollutant source will support subsequent efforts to identify and set priorities for necessary changes in materials, materials management practices, or site features, as well as aid in the selection of appropriate structural and nonstructural control techniques. Plans must describe the following elements:

(a) Site Map—The plan must contain a map of the site that shows the pattern of storm water drainage, structural and nonstructural features that control pollutants in storm water runoff and process wastewater discharges, surface water bodies (including wetlands), places where significant materials [100] are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. The map must also indicate the direction of storm water flow. An outline of the drainage area for each outfall must be provided; the location of each outfall and monitoring points must be indicated; and the types of discharges contained in the drainage areas of the outfalls (e.g., storm water and air conditioner condensate) must be identified. An estimation of the total site acreage utilized for each industrial activity (e.g., storage of raw materials, waste materials, and used equipment) must be provided. These areas include liquid storage tanks, stockpiles, holding bins, used equipment, and empty drum storage. These areas are considered to be significant potential sources of pollutants at printing and publishing facilities.

(b) Inventory of Exposed Materials—Facility operators are required to carefully conduct an inspection of the site to identify significant materials that are or may be exposed to storm water discharges. The inventory must address materials that within 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit have been handled, stored, processed, treated, or disposed of in a manner to allow exposure to storm water. Findings of the inventory must be documented in detail in the pollution prevention plan. At a minimum, the plan must describe the method and location of onsite storage or disposal; practices used to minimize contact of materials with precipitation and runoff; existing structural and nonstructural controls that reduce pollutants in storm water; existing structural controls that limit process wastewater discharges; and any treatment the runoff receives before it is discharged to surface waters or through a separate storm sewer system. The description must be updated whenever there is a significant change in the type or amounts of materials, or material management practices, that may affect the exposure of materials to storm water.

(c) Significant Spills and Leaks—The plan must include a list of any significant spills and leaks of toxic or hazardous pollutants that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of reportable quantities under Section 311 of CWA (see 40 CFR 110.10 and 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR 302.4). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements and releases of materials that are not classified as oil or a hazardous substance.

(d) Non-storm Water Discharges—Each pollution prevention plan must include a certification, signed by an authorized individual, that discharges from the site have been tested or evaluated for the presence of non-storm water, the results of any test and/or evaluation conducted to detect such discharges, the test method or evaluation criteria used, the dates on which tests or evaluations were performed, and the onsite drainage points directly observed during the test or evaluation. Pollution prevention plans must identify and ensure the implementation of appropriate pollution prevention measures for any non-storm water discharges.

[100] Significant materials include, "* * * but [are] not limited to: raw materials, fuels, materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; * * * hazardous substances designated under section 101(14) of CERCLA; any chemical facilities are required to report pursuant to section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharge." (40 CFR 122.26(b)(12)). Significant materials commonly found at transportation equipment, industrial or commercial machinery manufacturing facilities include raw and scrap metals; solvents; used equipment; petroleum based products; waste materials or by-products used or created by the facility.

(e) Sampling Data—Any existing data describing the quality or quantity of storm water discharges from the facility must be summarized in the plan. The description should include a discussion of the methods used to collect and analyze the data. Sample collection points should be identified in the plan and shown on the site map.

(f) Summary of Potential Pollutant Sources—The description of potential pollutant sources should clearly point to activities, materials, and physical features of the facility that have a reasonable potential to contribute significant amounts of pollutants to storm water. Any such activities, materials, or features must be addressed by the measures and controls subsequently described in the plan. In conducting the assessment, the facility operator must consider the following activities: raw materials (liquid storage tanks, stockpiles, holding bins), waste materials (empty drum storage), and used equipment storage areas. The assessment must list any significant pollutant parameter(s) (i.e., total suspended solids, oil and grease, etc.) associated with each source.

(2) Measures and Controls. Permittees must select, describe, and evaluate the pollution prevention measures, BMPs, and other controls that will be implemented at the facility. Source reduction measures include preventive maintenance, spill prevention, good housekeeping, training, and proper materials management. If source reduction is not an option, EPA supports the use of source control measures. These include BMPs such as material covering, water diversion, and dust control. If source reduction or source control are not available, then recycling or waste treatment are other alternatives. Recycling allows the reuse of storm water, while treatment lowers pollutant concentrations prior to discharge. Since the majority of printing and publishing activities occur indoors, the BMPs identified above are geared towards only those activities that occur outdoors or that otherwise have a potential to contribute pollutants to storm water discharges.

Pollution prevention plans must discuss the reasons each selected control or practice is appropriate for the facility and how each of the potential pollutant sources will be addressed. Plans must identify the time during which controls or practices will be implemented, as well the effect the controls or practices will have on storm water discharges from the site. At a minimum, the measures and controls must address the following components:

(a) Good Housekeeping—Permittees must describe protocols established to reduce the possibility of mishandling chemicals or equipment and training employees in good housekeeping techniques. Specifics of this plan must be communicated to appropriate plant personnel.

(b) Preventive Maintenance—Permittees are required to develop a preventive maintenance program that includes regular inspections and maintenance of storm water BMPs. Inspections should assess the effectiveness of the storm water pollution prevention plan. They allow facility personnel to monitor the components of the plan on a regular basis. The use of a checklist is encouraged, as it will ensure that all of the appropriate areas are inspected and provide documentation for recordkeeping purposes.

(c) Spill Prevention and Response Procedures—Permittees are required to identify proper material handling procedures, storage requirements, containment or diversion equipment, and spill removal procedures to reduce exposure of spills to storm water discharges. Areas and activities which are high risks for spills at printing and publishing facilities include raw material unloading and product loading areas, material storage areas, and waste management areas. These activities and areas and their drainage points must be described in the plan.

(d) Inspections—Qualified personnel must inspect designated equipment and areas of the facility at the proper intervals specified in the plan. The plan should identify areas which have the potential to pollute storm water for periodic inspections. Records of inspections must be maintained onsite.

(e) Employee Training—Permittees must describe a program for informing and educating personnel at all levels of responsibility of the components and goals of the storm water pollution prevention plan. A schedule for conducting this training should be provided in the plan. Where appropriate, contractor personnel must also be trained in relevant aspects of storm water pollution prevention. Topics for employee training should include good housekeeping, materials management, and spill response procedures. EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan.

(f) Recordkeeping and Internal Reporting Procedures—Permittees must describe procedures for developing and retaining records on the status and effectiveness of plan implementation. This includes the success and failure of BMPs implemented at the facility.

(g) Sediment and Erosion Control—Permittees must identify areas, due to topography, activities, soils, cover materials, or other factors that have a high potential for soil erosion. Measures to eliminate erosion must be identified in the plan.

(h) Management of Runoff—Permittees must provide an assessment of traditional storm water management practices that divert, infiltrate, reuse, or otherwise manage storm water so as to reduce the discharge of pollutants. Based on this assessment, practices to control runoff from these areas must be identified and implemented as required by the plan.

(3) Comprehensive Site Compliance Evaluation. The storm water pollution prevention plan must describe the scope and content of comprehensive site evaluations that qualified personnel will conduct to: (1) Confirm the accuracy of the description of potential sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of this section. Comprehensive site compliance evaluations must be conducted once a year for printing and publishing facilities. The individual(s) who will conduct the evaluations must be identified in the plan and should be members of the pollution prevention team. Evaluation reports must be retained for at least 3 years after the date of the evaluation.

Based on the results of each evaluation, the description of potential pollution sources, and measures and controls, the plan must be revised as appropriate within 2 weeks after each evaluation. Changes in the measures and controls must be implemented on the site in a timely manner, never more than 12 weeks after completion of the evaluation.

5. Monitoring and Reporting Requirements

a. Monitoring Requirements. The regulatory modifications at 40 CFR 122.44 (i)(2) established on April 2, 1992, grant permit writers the flexibility to reduce monitoring requirements in storm water discharge permits. EPA has determined that the potential for storm water discharges to contain pollutants above benchmark levels, because of the industrial activities and materials exposed to precipitation, does not

support sampling at printing and publishing facilities. Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, nitrate plus nitrite nitrogen is above the bench mark concentrations for the printing and publishing sector. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in this sector, EPA has determined that the higher concentrations of nitrate plus nitrite nitrogen are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require printing and publishing facilities to conduct analytical monitoring for this parameter. Based on a consideration of the BMPs typically used at these facilities, and generally low pollutant values from the application data, EPA believes that the pollution prevention plan with visual examinations of storm water discharges will help to ensure storm water contamination is minimized. Because permittees are not required to conduct sampling, they will be able to focus their resources on developing and implementing the pollution prevention plan.

Quarterly visual examinations of a storm water discharge from each outfall are required. The inspection must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, turbidity, floating solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each designated period during daylight hours unless there is insufficient rainfall or snow-melt to runoff. Where practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Examinations shall be conducted in each of the following periods for the purposes of inspecting storm water quality associated with storm water runoff and snow melt: January through March; April through June; July through September; October through December. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will help permittees to determine the effectiveness of their plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

As discussed above, EPA does not believe that chemical monitoring is necessary for printing and publishing facilities. EPA believes that between quarterly visual examinations and site compliance evaluations potential sources of contaminants can be recognized, addressed, and then controlled with BMPs. In determining the monitoring requirements, EPA considered the nature of the industrial activities and significant materials exposed at these sites, and performed a review of data provided in Part 2 group applications.

Y. Storm Water Discharges Associated With Industrial Activity From Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries

1. Discharges Covered Under This Section

This section covers storm water discharges associated with industrial activity from rubber and miscellaneous plastic products facilities (commonly identified by Standard Industrial Classification (SIC) major group 30) and miscellaneous manufacturing industries, except jewelry, silverware, and plateware (commonly identified by SIC major group 39, except 391).

Rubber and miscellaneous plastic products manufacturing facilities specifically include manufacturers of tires and inner tubes, rubber and plastic footwear, rubber and plastic hose and belting, gaskets, packing and sealing devices, and miscellaneous fabricated rubber products. This group also includes miscellaneous plastic products such as unsupported plastic film, sheet, rods and tubes, laminated plastic plate, sheet and profile shapes, plastic pipe and bottles, plastic foam products such as cups, ice chests and packaging materials, plastic plumbing fixtures, and miscellaneous plastic products.

Miscellaneous manufacturing industries specifically include manufacturers of musical instruments, games, toys and athletic goods, pens, pencils and artists' supplies, buttons, pins and needles, and a wide variety of products not classified elsewhere.

The SIC codes of the facilities covered by this section are in category (xi) of the definition of storm water discharges associated with industrial activity. Storm water discharges from facilities in this category are only regulated where precipitation and storm water runon come into contact with areas associated with industrial activities, and significant materials. Significant materials include, but are not limited to, raw materials, waste products, fuels, finished products, intermediate

products, by-products, and other materials associated with industrial activities.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Pollutants Found in Storm Water Discharges

a. Sources of Pollutants. As discussed above, the SICs of the facilities in this sector fall into category (xi) of the definition of "storm water associated with industrial activity" found at 40 Code of Federal Regulations (CFR) 122.26(b)(14). As noted in the preamble to the final storm water regulations of November 16, 1990, most of the actual manufacturing and processing activity at these types of facilities normally occurs indoors (55 FR 48008).

Additional information concerning these manufacturing processes and the industrial sector itself can be found in the following documents: "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Tire and Synthetic Rubber Processing Point Source Category," EPA 440/1–74–013a; "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Fabricated and Reclaimed Rubber Segment of the Rubber Processing Point Source Category," EPA 440/1–74/030a; and "Development Document and Effluent Limitations Guidelines and Standards for the Plastics Molding and Forming Point Source Category," EPA 440/1–84/069.

The types of activities at these facilities where exposure to storm water may occur consist primarily of loading/unloading activities, and the storage and handling of raw materials, by-products, final products or waste products. A wide variety of materials are used at the facilities including solvents, acids and caustic, carbon black, plasticizers, paint, processing oils, resins, rubber compounds and solutions, fuels such as diesel or gasoline, adhesives, zinc and miscellaneous chemicals. However, it should also be noted that this is a cumulative list gathered from all the types of facilities in this sector and that individual facilities do not necessarily use all the materials on the list. Tanks, drums or bags of these materials may be exposed to storm water during loading/unloading operations, or through outdoor storage or handling at some facilities.

Other items which may be exposed to storm water include surplus processing machinery, scrap metal, scrap plastic and rubber, plastic pellets, PVC pipe and rags. Table Y–1 lists potential pollutant sources from activities that commonly take place at rubber, miscellaneous plastic products, and miscellaneous manufacturing industries.

TABLE Y–1.—COMMON POLLUTANT SOURCES

Activity	Pollutant source	Pollutants
Outdoor Material Loading/Unloading	Wooden pallets, spills/leaks from material handling equipment, solvents, resins.	TSS, oil and grease, organics.
Outdoor Material and Equipment Storage	Solvents, acids and caustic, plasticizers, paint, lubricating oils, processing oils, resins, rubber compounds, mineral spirits, zinc, scrap metal, scrap plastic and rubber, plastic pellets, PVC pipe, and rags.	Organics, zinc, hydrocarbons, oil and grease, acids, alkalinity.

Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the rubber and plastic product and miscellaneous manufacturing industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: rubber and miscellaneous plastic products manufacturing and miscellaneous manufacturing. Tables Y–2 and Y–3 below include data for the eight pollutants that all facilities were required to monitor for under Form 2F. The tables also list those parameters that EPA has determined merit further monitoring.

TABLE Y–2.—Statistics for Selected Pollutants Reported by Tires and Inner Tubes, Rubber and Plastics Footwear, Gaskets, Packing, and Sealing Devices and Rubber and Plastics Hose and Belting, Fabricated Rubber Products, Not Elsewhere Classified Manufacturing Facilities Submitting Part II Sampling Data[i] (mg/L)

Pollutant	No. of Facilities		No. of Sample		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
Samples type	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	18	17	32	31	14.7	14.47	0.0	0.0	160.0	144.0	6.4	7.90	43.0	43.18	86.1	86.3
COD	16	17	32	31	105.2	77.7	13.0	0.0	812.0	321.0	52.0	63.0	271.5	335.7	499.0	737.6
Nitrate + Nitrite Nitrogen	16	17	32	31	0.72	1.69	0.04	0.05	2.49	32.0	0.58	0.05	2.61	4.12	5.30	9.63
Total Kjeldahl Nitrogen	16	17	32	31	1.98	1.44	0.37	0.0	8.55	6.48	1.38	1.11	5.55	4.07	9.87	7.20
Oil & Grease	16	N/A	32	N/A	5.3	N/A	0.0	N/A	76.0	N/A	1.5	N/A	16.5	N/A	37.5	N/A
pH	17	N/A	30	N/A	N/A	N/A	4.8	N/A	9.2	N/A	7.0	N/A	8.7	N/A	9.5	N/A
Total Phosphorus	16	17	32	31	0.35	0.51	0.00	0.0	1.65	8.65	0.22	0.17	1.17	1.38	2.31	3.19
Total Suspended Solids	16	17	32	31	185	129	0	0.0	1420	760	95	44	783	584	2143	1585
Zinc, Total	15	15	28	28	1.103	0.904	0.027	0.011	7.600	7.490	0.21	0.25	4.617	4.179	14.012	12.660

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.

[ii] Composite samples.

TABLE Y–3.—Statistics for Selected Pollutants Reported by Miscellaneous Plastics Products, Musical Instruments, Dolls, Toys, Games, and Sporting and Athletic Goods, Pens, Pencils, and Other Artists' Materials, Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, Except Precious Metal, and Miscellaneous Manufacturing Facilities Submitting Part II Sampling Data[1] (mg/L)

Pollutant Samples type	No. of Facilities		No. of Sample		Mean		Minimum		Maximum		Median		95th Percentile		99th Percentile	
	Grab	Comp[2]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD5	55	36	56	58	13.3	9.37	0.0	0.0	71.0	70.0	8.1	7.0	41.8	28.8	77.1	51.5
COD	55	35	56	56	100.6	89.0	0.0	0.0	600.0	540.0	57.0	56.5	780.2	201.2	3377.6	380.8
Nitrate + Nitrite Nitrogen	55	34	56	55	1.01	1.02	0.00	0.0	5.23	7.40	0.75	0.62	5.49	3.21	13.98	6.25
Total Kjeldahl Nitrogen	54	33	55	54	2.16	1.58	0.00	0.0	11.00	6.54	1.40	1.20	12.46	5.22	31.95	10.02
Oil & Grease	58	N/A	60	N/A	3.9	N/A	0.0	N/A	91.0	N/A	0.0	N/A	15.4	N/A	85.5	N/A
pH	32	N/A	54	N/A	N/A	N/A	2.6	N/A	10.1	N/A	7.3	N/A	9.8	N/A	10.8	N/A
Total Phosphorus	35	34	55	54	0.33	0.24	0.00	0.0	2.90	1.25	0.18	0.15	1.80	0.72	5.36	1.31
Total Suspended Solids	55	35	56	56	202	116	0	0	2008	2100	54	25	1777	433	8361	1261

[1] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[2] Composite samples.

3. Options for Controlling Pollutants

In evaluating options for controlling pollutants in storm water discharges, EPA must achieve compliance with the technology-based standards of the Clean Water Act [Best Available Technology (BAT) and Best Conventional Technology)]. The Agency does not believe that it is appropriate to establish specific numeric effluent limitations or a specific design or performance standard in this section for storm water discharges associated with industrial activity from rubber, miscellaneous plastic products and miscellaneous manufacturing industries to meet BAT/BCT standards of the Clean Water Act. Instead, this section establishes requirements for the development and implementation of site-specific storm water pollution prevention plans consisting of a set of Best Management Practices (BMPs) that are sufficiently flexible to address different sources of pollutants at different sites.

Certain BMPs are implemented to prevent and/or minimize exposure of pollutants from industrial activities to storm water discharges. EPA believes the most effective BMPs for reducing pollutants in storm water discharges are exposure minimization practices. Exposure minimization practices lessen the potential for storm water to come into contact with pollutants. Good housekeeping practices ensure that facilities are sensitive to routine and nonroutine activities which may increase pollutants in storm water discharges. The BMPs which address good housekeeping and exposure minimization are easily implemented, inexpensive, and require little, if any, maintenance. BMP expenses may include construction of roofs for storage areas or other forms of permanent cover and the installation of berms/dikes. Other BMPs such as detention/retention ponds and filtering devices may be needed at these facilities because of the contaminant level in the storm water discharges. The types of BMPs implemented will depend on the type of discharge, types and concentrations of contaminants, and the volume of the flow.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, geology/hydrology and the environmental setting of each facility, and volume and type of discharge generated. Each facility will be unique in that the source, type, and volume of contaminated storm water discharges will differ. In addition, the fate and transport of pollutants in these discharges will vary. EPA believes that the management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with rubber, miscellaneous plastic products and miscellaneous manufacturing industries.

Part 1 group application data indicated that the most widely implemented BMP, used by approximately 36 percent of the sampling facilities, is dikes. Less than 10 percent of the sampling subgroup reported that they cover their storage or loading areas; approximately 12 percent have roofs over their raw materials; and less than 5 percent store raw materials indoors. Because BMPs described in part 1 data are limited, the Table Y–4 is provided to identify BMPs associated with activities that routinely occur at rubber, miscellaneous plastic products and miscellaneous manufacturing industries.

TABLE Y–4.—GENERAL STORM WATER BMPS FOR RUBBER, MISCELLANEOUS PLASTIC PRODUCTS, AND MISCELLANEOUS MANUFACTURING INDUSTRIES

Activity	Best management practices (BMPs)
Outdoor Unloading and Loading	Confine loading/unloading activities to a designated area. Consider performing loading/unloading activities indoors or in a covered area. Consider covering loading/unloading area with permanent cover (e.g., roofs) or temporary cover (e.g., tarps). Close storm drains during loading/unloading activities in surrounding areas. Avoid loading/unloading materials in the rain. Inspect the unloading/loading areas to detect problems before they occur. Inspect all containers prior to loading/unloading of any raw or spent materials. Consider berming, curbing, or diking loading/unloading areas. Dead-end sump where spilled materials could be directed. Drip pans under hoses. Use dry clean-up methods instead of washing the areas down. Train employees on proper loading/unloading techniques and spill prevention and response.
Outdoor Material Storage (including waste, and particulate emission management).	Confine storage of materials, parts, and equipment to designated areas.

TABLE Y–4.—GENERAL STORM WATER BMPS FOR RUBBER, MISCELLANEOUS PLASTIC PRODUCTS, AND MISCELLANEOUS MANUFACTURING INDUSTRIES—Continued

Activity	Best management practices (BMPs)
	Consider secondary containment using curbing, berming, or diking all liquid storage areas. Train employees on proper waste control and disposal. Train employees in spill prevention and response. Consider covering tanks. Ensure that all containers are closed (e.g., valves shut, lids sealed, caps closed). Wash and rinse containers indoors before storing them outdoors. If outside or in covered areas, minimize runon of storm water by grading the land to divert flow away from containers. Leak detection and container integrity testing. Direct runoff to onsite retention pond. Inventory all raw and spent materials. Clean around vents and stacks. Place tubs around vents and stacks to collect particulate. Inspect air emission control systems (e.g., baghouses) regularly, and repair or replace when necessary. Store wastes in covered, leak proof containers (e.g., dumpsters, drums). Consider shipping all wastes to offsite landfills or treatment facilities. Ensure hazardous waste disposal practices are performed in accordance with Federal, State, and local requirements.

Sources: NPDES Storm Water Group Applications—Part 1. Received by EPA, March 18, 1991, through December 31, 1992.
EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.

There are three major types of facilities in this sector: (1) Rubber products manufacturers, (2) manufacturers of miscellaneous plastic products, and (3) miscellaneous industries. In discussions with the rubber industry, the BMPs found in Table Y–5 were identified for rubber manufacturing to control discharges of zinc which was the most frequently reported toxic pollutant in the storm water sampling data:

TABLE Y–5.—BMPS FOR THE CONTROL OF ZINC AT RUBBER PRODUCTS MANUFACTURERS

Zinc source	BMPs
Poor housekeeping, bags of zinc stored outside, zinc spilled from trucks during unloading, spillage during emptying for plant use.	Employee training, spill cleanup, indoor storage, use of special large volume sacks with less potential for releases of zinc.
Zinc containers, rubber products, rags contaminated with zinc stearate discarded in outdoor dumpsters.	Cover the dumpsters, use linked dumpsters which do not leak or move dumpster inside.
Malfunctioning baghouses for dust collection	Repair or replace the baghouse, regular maintenance.
Grinding operations from which zinc dust may be released	Use dust collection system or reduce the amount of dust generated.
Drips of zinc stearate during coating operations	Spill prevention/response, use of alternate compounds.

4. Special Conditions

There are no additional requirements under this section other than those stated in Part III. of the permit.

5. Storm Water Pollution Prevention Plan Requirements

EPA believes that pollution prevention is the most effective approach for controlling contaminated storm water discharges from rubber, miscellaneous plastic products, and miscellaneous manufacturing industries. The requirements included in the pollution prevention plans provide a flexible framework for the development and implementation of site-specific controls to minimize the pollutants in storm water discharges. This flexibility is necessary because each facility is unique in that the source, type, and volume of contaminated storm water discharge will vary from site to site.

Under today's permit, all facilities must prepare and implement a storm water pollution prevention plan. The pollution prevention plan requirement reflects EPA's decision to allow operators of rubber, miscellaneous plastic products, and miscellaneous manufacturing industries to utilize BMPs as the BAT/BCT level of control for the storm water discharges covered by this section.

There are two major objectives to a pollution prevention plan: (1) To identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from a facility; and (2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity from a facility.

Section 313 of EPCRA requires operators of manufacturing facilities that handle toxic chemicals in amounts exceeding threshold levels (listed at 40 CFR 372.25) to report to EPA on an annual basis. Because these types of facilities handle large amounts of toxic chemicals, EPA concluded that they have the increased potential to degrade the water quality of receiving streams. Consistent with Part VII.B. of this permit, Section 313 reporting facilities must fulfill specific requirements.

Except for the special controls discussed below for rubber products manufacturers, there are no additional Pollution Prevention Plan requirements other than those stated in Part IV of this permit.

a. Special Measures and Controls for Rubber Manufacturing Facilities. For rubber manufacturers, this section also requires permittees to develop specific BMPs to control discharges of zinc in storm water runoff. The principal sources of zinc in storm water runoff at these facilities were identified above in Section 3. EPA believes that sources of

zinc merit special attention at rubber products manufacturing facilities due to its prevalence at such facilities and its toxicity in aquatic systems. This section requires that rubber products manufacturers review the possible sources of zinc listed below at their facilities and include as appropriate the accompanying BMPs in their storm water pollution prevention plans:

(1) Inadequate Housekeeping. Permittees are required to review the handling and storage of zinc bags at their facilities. The following BMPs must be considered in developing the storm water pollution prevention plan: employee training regarding the handling and emptying of zinc bags, indoor storage of zinc bags, thorough cleanup of zinc spills without washing the zinc into a storm drain. Facilities must also consider the use of 2,500 pound sacks (from which spills are less likely) rather than 50 to 100 pound sacks.

(2) Zinc in Dumpsters. The following BMPs must be considered to reduce this potential source of zinc: provide a cover for the dumpster or move the dumpster inside; provide a lining for the dumpster.

(3) Malfunctioning Dust Collectors or Baghouses. Permittees must review dust collectors and baghouses as possible sources of zinc. Improperly operating dust collectors or baghouses must be replaced or repaired as appropriate; the plan must also provide for regular maintenance of these facilities.

(4) Grinding Operations. Permittees must review dust generation from rubber grinding operations at their facility and as appropriate, install a dust collection system.

(5) Zinc Stearate Coating Operations. The plan must include measures to prevent and/or clean up drips or spills of zinc stearate slurry which may be released to a storm drain. Alternate compounds to zinc stearate must also be considered.

6. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B of today's permit.

7. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. EPA believes that rubber product manufacturing facilities may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's permit. Under the revised methodology for determining pollutants of concern for the various industrial sectors, the rubber product manufacturing subsector must monitor its storm water discharges. The monitoring requirements are presented in Table Y–6. The pollutant listed in Table Y–6 was found to be above the benchmark level. Because this pollutant has been reported at benchmark levels from rubber product manufacturing facilities, EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

At a minimum, storm water discharges from rubber product manufacturing facilities must be monitored quarterly during the second year of permit coverage. Samples must be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in Table Y–6. If the permittee collects more than four samples in this period, then it must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE Y–6

Pollutants of concern	Cut-off concentration
Total Recoverable Zinc	0.065 mg/L

If the average concentration for a parameter is less than or equal to the cut-off concentration, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit. The schedule for monitoring is presented in Table Y–7.

TABLE Y–7.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Table Y–6, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Table Y–6, then no further sampling is required for that parameter.
4th Year of Permit Coverage	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Table Y–6. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will be used to reassess the effectiveness of the adjusted pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm

water discharges. The alternative certification described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part, provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis, in lieu of monitoring described in Table Y–6, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity, and that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA in lieu of monitoring reports required under paragraph (*c.*) below. The permittee is required to complete any and all sampling until the exposure is eliminated. If the facility is reporting for a partial year, the permittee must specify the date exposure was eliminated. If the permittee is certifying that a pollutant was present for part of the reporting period, nothing relieves the permittee from the responsibility to sample that parameter up until the exposure was eliminated and it was determined that no significant materials remained. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report Form must be submitted to the Director per storm event sampled. For facilities conducting monitoring beyond the minimum requirements, an additional signed Discharge Monitoring Report Form must be filed for each analysis. The permittee must include a measurement or estimate of the total precipitation, volume of runoff, and peak flow rate of runoff for each storm event sampled.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable, permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

f. Quarterly Visual Examination of Storm Water Quality. Rubber, miscellaneous plastic products, and miscellaneous manufacturing facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted under paragraph (3) below. The examination(s) must be made at least once in each of the following 3-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(*1*) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well-lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(*2*) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(*3*) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially

identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(*4*) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(*5*) EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

Z. Storm Water Discharges Associated With Industrial Activity From Leather Tanning and Finishing Facilities

1. Discharges Covered Under This Section

Storm water discharges covered by this section include all discharges from leather tanning (commonly identified by Standard Industrial Classification (SIC) code 3111) and facilities which make fertilizer solely from leather scraps and leather dust where precipitation and storm water runon come into contact with significant materials including, but not limited to, raw materials, waste products, by-products, stored materials, and fuels. This includes storm water discharges from access roads, and rail lines used or traveled by carriers of raw materials, manufactured products, waste materials, or by-products created by the facility. This section does not cover any discharge subject to process wastewater effluent limitation guidelines, including storm water that combines with process wastewater.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

a. Industry Profile. The storm water permit application regulations define storm water discharge associated with industrial activity at 40 Code of Federal Regulations (CFR) 122.26(b)(14). Category (ii) of this definition includes facilities identified by SIC code 3111, establishments primarily engaged in tanning, currying, and finishing hides and skins into leather. Most tanneries are small family operations, although several are divisions of larger corporations. The leather tanning and finishing industry currently includes approximately one hundred fifty facilities. There are effluent limitations guidelines for the leather tanning industry based on 9 subcategories, as described in the "Development Document for Effluent Limitations Guidelines and Standards for Leather Tanning and Finishing Point Source Category." (The subcategories were based on distinct combinations of raw materials and leather processing operations.)

Leather tanning or finishing is the conversion of animal hides or skins into leather. Leather is made from the inner layer of the animal skin, which consists primarily of the protein collagen. Tanning is the reaction of the collagen fibers with tannins, chromium, alum or other tanning agents. Tanning processes use chromium III, sulfuric acid and detergents and a variety of raw and intermediate materials.

There are three major processes required to make finished leather. These are beamhouse operations, tanyard processes and retanning and finishing processes. In general, most tanneries perform the entire tanning process, from beamhouse to wet finishing operations. A smaller number perform only beamhouse and tanyard operations and sell their unfinished product (wet "blue" stock) to other tanneries. These processes are described below:

Beamhouse Operations—These consist of four activities: side and trim; soak and wash; fleshing and unhairing. Side and trim is the cutting of the hide into two sides and trimming of areas which do not produce good leather. In soak and wash processes, the hides are soaked in water to restore moisture lost during curing. Washing removes dirt, salt, blood, manure, and nonfibrous proteins. Fleshing is a mechanical operation which removes excess flesh. The removed matter is normally recovered and sold for conversion to glue. Unhairing involves using calcium hydroxide, sodium sulfhydrate, and sodium sulfide to destroy the hair (hair pulp process) or remove hair roots. A mechanical unhairing machine can also be used to remove hair loosened by chemicals (hair save process). Beamhouse processes can account for approximately 60 percent of the pollutant load (except trivalent chromium) from a complete tannery. Pollutants that may be produced are proteinaceous organic and inorganic pollutants characterized by a high pH (10–12) and substantial amounts of Biochemical Oxygen Demand (BOD), Chemical Oxygen Demand (COD), Total Suspended Solids (TSS), Total Kjeldahl Nitrogen (TKN), and sulfides.

Tanyard Processes—These consist of bating, pickling, tanning, wringing, splitting, and shaving. Bating involves the addition of salts of ammonium sulfate or ammonium chloride used to convert the residual alkaline chemicals present from the unhairing process into soluble compounds which can be

washed from the hides or skins. "Pickling" the hide with sulfuric acid provides the acid environment necessary for chromium tanning. In the tanning process, tanning agents such as trivalent chromium and vegetable tannins convert the hide into a stable product which resists decomposition. Wringing of the "blue hides" (hides tanned with trivalent chromium) removes excess moisture with a machine similar to a clothes wringer. Splitting adjusts the thickness of the tanned hide to the requirements of the finished product and produces a "split" from the flesh side of the hide. The hide is then shaved to remove any remaining fleshy matter. Wastewater from tanyard operations contain inorganic chemical salts, small amounts of proteinaceous hair and waste, and large amounts of ammonia from the bating process. Pickling generates a highly acidic waste (pH of 2.5–3.5) which contains salt. Spent chromium liquors contain high concentrations of trivalent chromium in acid solution with low concentrations of BOD and TSS. Vegetable tanning vat discharges are highly colored, and contain significant amounts of BOD, COD, and dissolved solids.

Retanning and Wet Finishing Processes—These include retanning, bleaching, coloring, fatliquoring, and finishing. The most common retanning agents are chromium, vegetable extracts and syntans (based upon naphthalene and phenol). Sodium bicarbonate and sulfuric acid are sometimes used to bleach leather. Coloring involves the use of dyes (usually aniline based) on the tanned skin. Animal or vegetable fatliquors are added to replace the natural oils lost in the beamhouse and tanyard processes. Finishing includes all operations performed on the hide after fatliquoring, and includes finishing to enhance color and resistance to stains and abrasions, smoothing and stretching of the skin, drying, conditioning, staking, dry milling, buffing and plating. These processes generate wastes with additional quantities of trivalent chromium, tannins, sulfonated oils, and spent dyes, which are low in BOD and TSS, and high in COD.

Table Z–1 lists potential storm water pollutant source activities that may take place at leather tanning facilities.

TABLE Z–1.—POLLUTANTS POTENTIALLY FOUND IN STORM WATER DISCHARGES AT LEATHER TANNING FACILITIES

Activity	Pollutant source	Pollutant
Outdoor storage of fresh and brine cured hides	Fresh & brine cured hides	Salt, organic materials (manure), biochemical oxygen demand.
Beamhouse Processes (trimming, soak & wash, fleshing, unhairing).	Chemical storage (drums or bags)	Depilatory chemicals.
	Empty containers of lime, depilatory chemicals.	Calcium hydroxide, sodium sulfhydrate, or sodium sulfide.
	Trim scraps, hair	BOD, COD, TSS.
Tanyards (bating, pickling, tanning, wringing, splitting, shaving).	Empty chemical containers	Trivalent chromium, vegetable tannins, enzymes, pickling acids (sulfuric acid), alum, syntans, chemical deliming agents, glutaraldehyde, heavy oils.
	"Blue" hides, splits, trimmings, shavings	Trivalent chromium, leather fiber and dust, suspended solids.
Retan and Wet Finishing (retanning, bleaching & coloring, fatliquoring, buffing).	Empty chemical containers	Chromium tanning agents, vegetable extract, dyes, pigments, animal or vegetable based oils, synthetic oils made from modified mineral based oils.
	Leather dust containing chromium.	Leather fiber, trivalent chromium, suspended solids.
Dry finishing (Application of pigment to leather surface with water-based or solvent based finishes).	Emissions from spray booths and spent solvents.	Pigments, solvents-acetone, pylene, glycol ether.
Receiving and unloading areas	Hides	Trivalent chromium, salt.
	Chemical supplies	Depilatory chemicals, trivalent chromium, vegetable tannins, enzymes, pickling acids (sulfuric acid), alum, syntans, chemical deliming agents, glutaraldehyde, heavy oils, dyes, pigments, animal or vegetable based oils, synthetic oils, solvents and biocides.
	Leaking trucks	Oil & grease and waste materials.
	Accidental spills	Chemicals listed for supplies above.
Improper Connections to Storm Sewer	Floor drains-process wastewater, cleaning and washdown of process equipment and process areas.	Dependent on operations.
Outdoor Bulk Chemical Storage	Above ground tanks	Sulfuric acid, ferric chloride, finishing solvents (mineral spirits), hydrated lime, surfactant.
Outdoor Storage of coal	Coal piles	Oil & grease, TSS, copper, nickel, zinc.
Waste Management	Hoppers	Leather dust, scraps.
	Dumpsters	Empty bags & chemical containers.
	Sludge (wastewater treatment sludge stored in containers to diminish storm water contact, awaiting offsite disposal).	Lime, pieces of leather, hair, protein-like substances, floor sweepings, trivalent chromium, biochemical oxygen demand.

Sources: NPDES Storm Water Group Applications—Part 1. Received by EPA May 22, 1991—February 18, 1992.

EPA, Office of Water. November 1982. "Development Document for Effluent Limitations Guidelines and Standards for the Leather Tanning and Finishing Point Source Category." EPA/440/1–82/016.

EPA, Office of Water Regulations and Standards and Office of Water Enforcement and Permits. September 1986. "Guidance Manual for Leather Tanning and Finishing Pretreatment Standards."

EPA, Office of Solid Waste Management Programs, SCS Engineers, Reston, VA. 1976. "Assessment of Industrial Hazardous Waste Practices. Leather Tanning and Finishing Industry." EPA–68–01–3261.

2. Pollutants Found in Storm Water Discharges From Leather Tanning Operations

The impacts caused by storm water discharges from leather tanning facilities will depend on the geographic location of the facility, the types of industrial activities occurring onsite (e.g., beamhouse, tanyard, retan and wet finishing, dry finishing); the types of significant materials exposed to storm water (e.g., trivalent chromium tanned leather shavings, chemical containers etc.), the size of the operation; and the type, duration, and intensity of precipitation events. Other factors such as air emissions (i.e., settled dust), materials storage, spills, improperly dumped materials, and illicit conditions may also impact receiving waters. (Illicit connections are contributions of unpermitted non-storm water discharges to storm sewers.)

Part 1 group application information indicates that the industrial activities occurring at leather tanning facilities include leather tanning plant yards; unhairing (76.9 percent of samplers); chromium tanning (69.2 percent of samplers); splitting and shaving (76.9 percent) retanning (69.2 percent); wet hide finishing-buffing (76.9 percent); dry finishing; vegetable tanning (30.8 percent); immediate access roads and rail lines used or traveled by carriers of raw materials (38.5 percent of samplers), manufactured products, waste management (36.8 percent); material handling sites (23.1 percent); refuse sites; sites used for the application or disposal of process wastewaters (as defined at 40 CFR Part 401) sites used for residual treatment, storage or disposal (waste water treatment (30.8 percent)); shipping and receiving areas (69.2 percent of samplers); finished materials; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. (40 CFR 122.26(b)(14)).

Significant materials include raw materials, brine or salt cured hides and skins (7.7 percent), fuels (15.4 percent), materials such as solvents, detergents, finished materials; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), any chemical required to be reported pursuant to Section 313 of Title III of the Superfund Amendments and Reauthorization Act; fertilizers; pesticides; and waste products such as sludge (7.7 percent) that have the potential to be released with storm water discharge. (40 CFR 122.26(b)(12)). Other significant materials found at leather tanning facilities include leather shavings and dust (46.2 percent), leather scrap (30.8 percent), blue hides and splits (46.2 percent), empty chemical containers, spent solvents, emissions from spray booths, and wastes in dumpsters. Significant materials produced from various industrial activities occurring at leather tanning facilities are summarized in Table Z–1.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at leather tanning and finishing facilities as a whole and not subdivide this sector. Therefore, Table Z–2 lists data for selected parameters from facilities in the leather tanning and finishing sector. These data include the eight pollutants that all facilities were required to monitor for under Form 2F.

TABLE Z–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY LEATHER TANNING AND FINISHING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	12	12	31	31	33.1	22.3	0.0	0.0	320.0	92.0	11.0	10.0	105.8	78.05	217.9	145.3
COD	12	12	31	31	205.5	91.94	0.0	0.0	2100.0	460.0	92.0	50.0	597.0	296.0	1247.4	577.2
Nitrate + Nitrite Nitrogen	12	12	31	31	1.86	1.88	0.06	0.30	11.00	9.60	1.20	0.90	6.12	5.01	11.97	9.01
Total Kjeldahl Nitrogen	12	12	31	31	7.70	6.22	0.70	0.90	46.00	38.0	4.30	3.50	26.49	19.7	55.80	39.18
Oil & Grease	12	N/A	31	N/A	13.9	N/A	0.0	N/A	130.0	N/A	0.0	N/A	56.4	N/A	124.5	N/A
pH	12	N/A	31	N/A	N/A	N/A	4.6	N/A	9.0	N/A	7.4	N/A	8.9	N/A	9.8	N/A
Total Phosphorus	12	12	31	31	0.36	0.83	0.00	0.03	3.00	18.0	0.16	0.18	1.11	1.51	2.34	3.66
Total Suspended Solids	12	12	31	31	310	115	0	0	4000	670	49	86	1302	520	4071	1209

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

Table Z-3 lists the potential pollutant sources for common pollutants found at leather tanning and finishing facilities.

TABLE Z–3.—LIST OF POTENTIAL POLLUTANT SOURCES

Parameter	Pollutant sources
Oil and Grease	Degreasing processes, oils used in leather processing (fatliquoring).
COD	Complex organic and inorganic process chemicals, dyes, vegetable tannins, extraneous hide substances.
BOD_5	Carbonaceous organic materials such as dissolved or pulped hair and other extraneous hide substances, nitrites, ammonia from residual bating chemicals and from hydrolytic deamination of proteinaceous hair and hide substances.
pH	Acidic or alkaline materials.
TSS	Leather dust, scraps, hair.
Total phosphorus	Detergents.
Nitrate nitrite nitrogen	Spent bating liquors and breakdown of organic proteins (dissolved hair and dermal matter).
Total Kjeldahl nitrogen	Dissolved or pulped proteinaceous hair.
Chromium	Blue hides, leather scraps and dust, waste materials such as empty containers, sludge.

3. Options for Controlling Pollutants

The measures implemented to reduce pollutants in storm water associated with leather tanning operations are generally uncomplicated practices. The following table identifies Best Management Practices (BMPs) associated with different activities that take place at leather tanning facilities. The most effective BMPs will be selected on the basis of site-specific considerations (e.g., facility size, industrial processes performed geographic location, significant materials, volume and type of discharge

generated). Because of the industrial processes involved in leather tanning, BMPs that concentrate on source reduction, recycling and containment/diversion will be the most helpful for reducing pollution in storm water runoff.

Source reduction BMPs include good housekeeping, materials management practices, preventive maintenance, spill prevention and response activities and employee training. Activities associated with good housekeeping include:

Operation and Maintenance—Keep floors clean and dry, regularly pick up garbage and waste materials, make sure equipment is working properly, routinely inspect for leaks or conditions that could lead to discharges of chemicals or contact of storm water with raw materials, intermediate materials, waste materials etc., reduce chemical spills resulting from carelessness and prepare program to control spills and carry out cleanups. Ensure that spill cleanup procedures are understood by employees. Eliminate unnecessary uses of water such as leaving hoses running.

Materials Storage and Maintenance—Store containers away from direct traffic routes to prevent accidental spills, stack containers according to manufacturers instructions to avoid damaging containers, store containers on pallets to prevent corrosion of containers, assign responsibility of hazardous material inventories to a limited number of people who are trained to handle hazardous materials.

Material Inventory Procedures—Identify all chemical substances present in the work place, label all containers, clearly mark on the inventory hazardous materials that require special handling, storage or use.

Preventive Maintenance—Identify equipment, systems and facility areas that should be inspected, schedule periodic inspections of the equipment and systems, timely adjustments, repair, or replacement of equipment and systems. Maintain complete records on inspections, equipment, and systems. Install automatic monitoring devices to detect abnormal discharge of gases and hazardous substances.

Containment/diversion BMPs involve segregating areas of concern by covering or berming the activity and controlling dust. Diversion dikes, curbs and berms are temporary or permanent diversion structures that prevent runoff from passing beyond a certain point, and divert runoff away from its intended path. Dikes, curbs and berms are already in use at some leather tanning facilities.

Part 1 group application data indicate that BMPs have not been widely implemented at the representative sampling facilities. The most commonly listed material management practice is roofing and covers. Table Z–4 lists BMPs associated with different activities that take place at leather tanning facilities.

TABLE Z–4.—LIST OF BEST MANAGEMENT PRACTICES

Activity	Best management practices
Temporary Outdoor Storage of fresh or brine cured hides.	Store hides indoors if possible. Cover the hides with a roof or temporary covering (e.g., polyethylene, tarpaulin etc.). Minimize storm water runon by enclosing the area or building a berm around the area. Inspect area regularly for proper implementation of good housekeeping and control measures.
Beamhouse Operations	Store chemical drums & bags and empty lime & depilatory chemical containers indoors if possible, preventive maintenance. Cover chemical drums & bags, empty lime & depilatory chemical containers and leather scraps with roof or temporary covering (e.g., tarpaulins, polyethylene) and store on elevated impermeable surface. Curbing, containment dikes around chemical storage, empty lime & depilatory chemical containers and leather scrap storage area. Inspect area regularly for leaking drums, broken bags, proper implementation of good housekeeping and control measures, (broken cracked dikes), material inventory, material storage and operation & maintenance. Clean up leaks & spills quickly & completely, use drip pans for leaking equipment. Good Housekeeping—all paved areas should be swept regularly, eliminate unnecessary flushing with water and label chemical drums and containers. Employee training on good housekeeping, proper handling of chemicals.
Tanyards	BMPs for Tanyards (empty chemical containers and hides, leather dust, shavings) are the same as those listed above for Beamhouse Activities.
Retan and wet finish	Dust reduction through frequent inspection of vacuum, collector (bag & cyclone), and filter systems. Dust reduction through enclosure and covering. Preventive maintenance/inspection of dust collection systems. Good Housekeeping-regular sweeping of paved areas, eliminate unnecessary flushing with water and label chemical drums and containers. Employee training on good housekeeping, proper handling of chemicals.
Dry Finish	Preventive maintenance, inspection of spray booths. Employee training on proper disposal of spent solvents.
Receiving and shipping	Cover shipping & receiving area. Cover trucks. Vehicle positioning—locating trucks while transferring materials to prevent spills onto the ground surface. Grade berm or curb area to prevent storm water runon contamination, divert rain gutters away from loading area. Clean spills immediately. Inspect trucks for leaks. Employee training in spill prevention.
Liquid Storage in Above Ground Tanks	Clearly tag valves to avoid human error. Install overflow protection devices on tank systems to warn operator or to automatically shut down transfer pumps when tanks reach full capacity. Secondary containment around tanks.

TABLE Z–4.—LIST OF BEST MANAGEMENT PRACTICES—Continued

Activity	Best management practices
	Employee training.
	Inspection of tank foundations, connections, coatings, valves and piping systems.
	Comply with existing spill prevention, cleanup and countermeasure plans (SPCC plan) and State and Federal laws.
	Integrity testing by qualified professional.
Improper connections to storm sewers	Plug all floor drains connected to sanitary or storm sewer.
	Perform smoke or dye testing to determine if interconnections exist between sanitary water system and storm sewer system.
	Update facility schematics to accurately reflect all plumbing connections.
	Install a safeguard against washwaters from processing areas entering the storm sewer unless permitted.
	Train employees on proper disposal practices for all materials.
Waste Management	Conduct waste reduction assessment—develop guidelines for the elimination of waste generation emissions.
	Institute industrial waste source reduction and recycling BMPs.
	Move waste management activities indoors (after safety concerns are addressed) and cover waste piles, dumpsters, hoppers, place on impermeable elevated surfaces.
	Prevent storm water runon by curbing, building berms.
	Cover trucks & inspect for leaking wastes.
	Inspection of waste management areas for leaking containers, spills, damaged containers, uncovered waste piles, dumpsters, hoppers.
	Inspection of roof areas & outside equipment.
	Develop and maintain proper erosion control or site stabilization measures.
	Train employees on proper disposal practices for all materials.

Sources: NPDES Storm Water Group Applications—Part 1.
EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities—Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.
EPA, Office of Research and Development. January 1993. "Investigation of Inappropriate Pollutant Entries into Storm Drainage Systems. A User's Guide." EPA/600/R–92/238.

4. Special Conditions

There are no additional requirements beyond those described in Part VI.B. of this fact sheet.

5. Storm Water Pollution Prevention Plan Requirements

All facilities covered by this section must prepare and implement a storm water pollution prevention plan. The establishment of a pollution prevention plan requirement reflects EPA's decision to allow operators of leather tanning facilities to select BMPs as the Best Available Technology/Best Control Technology (BAT/BCT) level of control for the storm water discharges covered by this section. The requirements included in pollution prevention plans provide a flexible framework for the development and implementation of site specific controls to minimize pollutants in storm water discharges.

EPA believes that pollution prevention is the most effective approach for controlling contaminated storm water discharges from leather tanning facilities. Pollution prevention plans allow the operator of a facility to select BMPs based on site-specific considerations such as facility size, climate, geographic location, the environmental setting of the facility, and volume and type of discharge generated. This flexibility is necessary because each facility will be unique in that the source, type, and volume of contaminated surface water discharges will differ from site to site.

There are two major objectives to a pollution prevention plan (1) to identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from a facility; and (2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity from a facility. Specific requirements for a pollution prevention plan for leather tanning facilities and facilities which make fertilizer solely from leather scraps and dust are described below.

a. Contents of the Plan. Storm water pollution prevention plans are intended to help leather tanners evaluate all potential pollution sources at a site, and assist in the selection and implementation of appropriate measures designed to prevent, or control the discharge of pollutants in storm water runoff. EPA has developed guidance entitled "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices," EPA, 1992 (EPA 832–R–92–006), to assist permittees in developing and implementing pollution prevention measures.

(1) Description of Potential Pollutant Sources. Each storm water pollution prevention plan must describe activities, materials, and physical features of the facility that may contribute to storm water runoff or, during periods of dry weather result in dry weather flows. This assessment of storm water pollution will support subsequent efforts to identify and set priorities for necessary changes in materials, materials management practices, or site features, as well as aid in the selection of appropriate structural and nonstructural control techniques. Plans must describe the following elements:

(a) Drainage—The plan must contain a map of the site that shows the pattern of storm water drainage, structural features that control pollutants in storm water runoff and process wastewater discharges, surface water bodies (including wetlands), places where significant materials are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. The map also must show areas where the following activities take place: fueling, vehicle and equipment maintenance and/or cleaning, loading and unloading, material storage (including tanks or other vessels used for liquid or waste

storage), material processing, and waste disposal, haul roads, access roads, and rail spurs. In addition the site map must also identify the location of all outfalls covered under this permit. The facility must prepare an inventory of the types of discharges contained in each outfall. This inventory may be kept as an attachment to the site map.

(b) Inventory of Exposed Materials—Facility operators are required to carefully conduct an inspection of the site and related records to identify significant materials that are or may be exposed to storm water. The inventory must address materials that within 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit have been handled, stored, processed, treated, or disposed of in a manner to allow exposure to storm water. Findings of the inventory must be documented in detail in the pollution prevention plan. At a minimum, the plan must describe the method and location of onsite storage or disposal; practices used to minimize contact of materials with rainfall and runoff; existing structural and nonstructural controls that reduce pollutants in storm water runoff; existing structural controls that limit process wastewater discharges; and any treatment the runoff receives before it is discharged to surface waters or a separate storm sewer system. The description must be updated whenever there is a significant change in the types or amounts of materials, or material management practices, that may effect the exposure of materials to storm water.

(c) Significant Spills and Leaks—The plan must include a list of any significant spills and leaks of toxic or hazardous pollutants that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Significant pills include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Section 311 of CWA (see 40 CFR 110.0 and 40 CFR 117.21) or Section 102 of CERCLA (see 40 CFR 302.4). Significant spill may also include releases of oil or hazardous substances that are not in excess of reporting requirements and release of materials that are not classified as oil or a hazardous substance. The list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—Any existing data on the quality or quantity of storm water discharges from the facility must described in the plan. The description should include a discussion of the methods used to collect and analyze the data. Sample collection points should be identified in the plan and shown on the site map.

(e) Risk Identification and Summary of Potential Pollutant Sources—The description of potential pollution sources culminates in a narrative assessment of the risk potential that sources of pollution pose to storm water quality. This assessment should clearly point to activities, materials, and physical features of the facility that have a reasonable potential to contribute significant amounts of pollutants to storm water. Any such activities, materials, or features must be addressed by the measures and controls subsequently described in the plan. In conducting the assessment, the operator of the facility must consider the following activities: loading and unloading operations; outdoor storage activities; outdoor processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The assessment must list any significant pollution sources at the site and identify the pollutant parameter or parameters (i.e., total suspended solids, biochemical oxygen demand, etc.) associated with each source.

(2) Measures and Controls. Under the description of measures and controls in the storm water pollution prevention plan requirements, this section proposes that all areas that may contribute pollutants to storm water discharges shall be maintained in a clean, orderly manner. This section also proposes that the following areas must be specifically addressed:

(a) Areas to be Addressed.

(i) Storage Areas for Raw, Semiprocessed, or Finished Tannery By-products—Pallets and/or bales of raw, semiprocessed, or finished tannery by-products (e.g., splits, trimmings, shavings, etc.) that are stored where there is potential storm water contact, must be stored indoors or protected by polyethylene wrapping, tarpaulins, roofed storage area or other suitable means. Materials should be placed on an impermeable surface, the area should be enclosed or bermed or other equivalent measures should be employed to prevent runon or runoff of storm water.

(ii) Material Storage Areas—Label storage units of all materials (e.g., specific chemicals, hazardous materials, spent solvents, waste materials). Maintain such containers and units in good condition. Describe measures that prevent or minimize contact with storm water. The facility must consider indoor storage and/or installation of berming and diking around the area to prevent runon or runoff of storm water.

(iii) Buffing/Shaving Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff with leather dust from buffing/shaving areas. The facility may consider dust collection enclosures, preventive inspection/maintenance programs or other appropriate preventive measures.

(iv) Receiving, Loading, and Storage Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from receiving, unloading, and storage areas. Exposed receiving, unloading and storage areas for hides and chemical supplies should be protected by a suitable cover, diversion of drainage to the process sewer, directing rain gutters away from loading/receiving areas, grade berming or curbing area to prevent runon of storm water or other appropriate preventive measures.

(v) Outdoor Storage of Contaminated Equipment—The plan must describe measures that minimize contact of storm water with contaminated equipment. Equipment should be protected by suitable cover, diversion of drainage to the process sewer, thorough cleaning prior to storage or other appropriate preventive measures.

(vi) Waste Management—The plan must describe measures that prevent or minimize contamination of the storm water runoff from waste storage areas. The facility may consider inspection/maintenance programs for leaking containers or spills, covering dumpsters, moving waste management activities indoors, covering waste piles with temporary covering material such as tarpaulin or polyethylene, and minimizing storm water runon by enclosing the area or building berms around the area.

(vii) Vehicle Maintenance and Fueling—Permittees must follow all applicable requirements described in Part XI.P. for controlling storm water discharges from vehicle maintenance and refueling areas.

(viii) Improper Connections to Storm Sewers—The plan must describe measures which prevent and prohibit washwaters from processing areas from entering storm sewers. The facility must install safeguards against wash waters entering storm sewers and train employees on proper disposal practices for disposal of all process waste materials.

These areas are sources of pollutants in storm water from leather tanning facilities. EPA believes that the incorporation of BMPs such as those suggested, in conjunction with the pollution prevention plan, will substantially reduce the potential of

storm water contamination from these areas. Based upon the information provided in part 1 of the group application process, some of the suggested management processes are being used at leather tanning facilities. In addition, EPA believes that these requirements continue to provide the necessary flexibility to address the variable risk for pollutants in storm water discharges associated with different facilities. Further, many facilities will find that management measures that they have already incorporated into the facilities operation, such as the use of covers and roofing, containers, and berms and dikes will meet the requirements of this section.

(b) Preventive Maintenance—Under the preventive maintenance requirements of the pollution prevention plan, permittees are required to develop a preventive maintenance program that includes regular inspections and maintenance of storm water BMPs. The maintenance program requires periodic removal of debris from discharge diversions. Permittees using ponds to control their effluent limitation frequently use impoundments or sedimentation ponds as their BAT/BCT. Maintenance schedules and maintenance measures for these ponds must be provided in the pollution prevention plan.

The purpose of the inspections is to check on the accuracy of the description of potential pollution sources contained in the plan, determine the effectiveness of the plan and implementation of the storm water pollution prevention plan. The inspections allow facility personnel to monitor the success or failure of elements of the plan on a regular basis. The use of an inspection checklist is recommended. The checklist will ensure that all required areas are inspected, as well as help to meet the record keeping requirements. Based on the results of each inspection, the description of potential pollution sources, and measures and controls, the plan must be revised as appropriate within 2 weeks after each inspection. Changes in the measures and controls must be implemented on the site in a timely manner, and never more than 12 weeks after completion of the inspection.

(c) Inspections—Under the inspection requirements of the storm water pollution prevention plan elements, qualified facility personnel shall be identified to inspect designated areas of the facility, at a minimum of every 3 months. The individual or individuals who will conduct the inspections must be identified in the plan and should be members of the pollution prevention team. The following areas shall be included in all inspections: storage areas for equipment and vehicles awaiting maintenance, facility yard area where outdoor storage occurs, receiving and unloading areas and waste management areas. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained and the pollution prevention plan modified where necessary.

In addition, qualified personnel must conduct quarterly visual inspections of all BMPs. The inspections shall include an assessment of the effectiveness and need for maintenance of storm water roofing and covers, dikes and curbs, discharge diversions, sediment control and collection systems and all other BMPs.

Quarterly visual inspections must be made at least once in each of the following designated periods during daylight hours. January–March (storm water runoff or snow melt), April–June (storm water runoff), July–September (storm water runoff), and October–December (snow melt runoff). Records shall be maintained as part of the pollution prevention plan.

(d) Employee Training—Under the employee training component of the storm water pollution prevention plan requirements, the permittee is required to identify annual (once per year) dates for training. Employee training must, at a minimum, address the following areas when applicable to a facility: general good housekeeping practices, spill prevention and control, waste management, inspections, preventive maintenance, detection of non-storm water discharges and other areas. EPA requires that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan.

(e) Recordkeeping and Internal Reporting—Permittees must describe procedures for developing and retaining records on the status and effectiveness of plan implementation. The plan must address spills, monitoring, and BMP inspection and maintenance activities. Ineffective BMPs must be reported and the date of their corrective action recorded. Employees must report incidents of leaking fluids to facility management and these reports must be incorporated into the plan.

(f) Storm Water Management—The permittee must evaluate the appropriateness of each storm water BMP that diverts, infiltrates, reuses, or otherwise reduces the discharge of contaminated storm water. In addition, the permittee must describe the storm water pollutant source or activity (i.e., loading and unloading operations, raw material storage piles, waste piles, etc.) to be controlled by each storm water management practice.

(3) Comprehensive Site Compliance Evaluation. The storm water pollution prevention plan must describe the scope and content of comprehensive site evaluation that qualified personnel will conduct to: 1) confirm the accuracy of the description of potential pollution sources contained in the plan; 2) determine the effectiveness of the plan; and 3) assess compliance with the terms and conditions of this section. Comprehensive site compliance evaluations must be conducted once a year for leather tanning facilities. These evaluations are intended to be more in depth than the quarterly visual inspections. The individual or individuals who will conduct the evaluation must be identified in the plan and should be members of the pollution prevention team. Evaluation reports must be retained for at least 3 years after the date of the evaluation. Based on the results of each evaluation, the description of potential pollution sources, and measures and controls, the plan must be revised as appropriate within 2 weeks after each inspection. Changes in the measures and controls must be implemented on the site in a timely manner, and never more than 12 weeks after completion of the evaluation.

6. Numeric Effluent Limitations

There are no numeric effluent limitations for storm water discharges from leather tanning facilities beyond those described in Part VI.E. of the fact sheet.

7. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. The regulatory modifications at 40 CFR 122.44 (i)(2) established on April 2, 1992, grant permit writers the flexibility to reduce monitoring requirements in storm water discharge permits. EPA has determined that the potential for storm water discharges to contain pollutants above benchmark levels, because of the industrial activities and materials exposed to precipitation, does not support sampling at leather tanning and finishing facilities. Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water

discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, nitrate plus nitrite nitrogen is above the bench mark concentrations for the leather tanning and finishing sector. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in this sector, EPA has determined that the higher concentrations of nitrate plus nitrite nitrogen are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require leather tanning and finishing facilities to conduct analytical monitoring for this parameter. Based on a consideration of the BMPs typically used at these facilities, and generally low pollutant values from the application data, EPA believes that the pollution prevention plan with visual examinations of storm water discharges will help to ensure storm water contamination is minimized. Because permittees are not required to conduct sampling, they will be able to focus their resources on developing and implementing the pollution prevention plan.

b. Quarterly Visual Examination of Storm Water Quality. Quarterly visual examinations of a storm water discharge from each outfall are required for leather tanning and finishing facilities. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each of the following three-month periods: January through March; April through June; July through September; and October through December during daylight unless there is insufficient rainfall or snow-melt to runoff. EPA expects that, whenever practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

AA. Storm Water Discharges Associated With Industrial Activity From Fabricated Metal Products Industry

1. Discharges Covered Under this Section

On November 16, 1990 [55 **Federal Register** (FR) 47990], the U.S. Environmental Protection Agency (EPA) promulgated the regulatory definition of "storm water discharges associated with industrial activity." This section of today's final permit covers storm water discharges associated with industrial activities from metal fabrication processes and operations. Fabricated metal and processing facilities eligible for coverage under this section include the following types of operations: fabricated metal products, except machinery and transportation equipment (Standard Industrial Classification (SIC) codes 3429, 3441, 3442, 3443, 3444, 3451, 3452, 3462, 3471, 3479, 3494, 3496 and 3449); and jewelry, silverware, and plated ware (SIC code 391).

This section covers establishments engaged in fabricating ferrous and nonferrous metal products, such as metal cans, tinware, general hardware, automotive parts, tanks, road mesh, structural metal products, nonelectrical equipment, and a variety of metal and wire products from purchased iron or steel rods, bars, or wire materials. This section does not cover discharges from establishments engaged in manufacturing and rolling of ferrous and nonferrous metals, forgings or stampings, electrolytic or other processes for refining copper from ore. These establishments are addressed in a separate section of today's final permit.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

Impacts caused by storm water discharges from fabricating operations will vary from one facility to the next. Several factors influence to what extent

significant materials from fabricators will affect water quality. Specifically, the use of indoor operations as opposed to outdoor storage facilities; discharges to Publicly Owned Treatment Works (POTWs); recycling programs; product choice in the various operations; and the number of operations that take place at a given facility based on customer needs; and use of storm water controls.

This section does not cover any discharge subject to process wastewater effluent limitation guidelines.

2. Industrial Profile

There are two major subcategories of facilities covered by this sector: fabricated metal products excluding coating and fabricated metal coating and engraving. These facilities are engaged in the manufacturing of a variety of products that are constructed primarily by using metals. The operations performed usually begin with materials in the form of raw rods, bars, sheet, castings, forgings, and other related materials and can progress to the most sophisticated surface finishing operations. There are typically several operations that take place at a fabrication facility: machining operations, grinding, cleaning and stripping, surface treatment and plating, painting, and assembly. The machining operation involves turning, drilling, milling, reamifig, threading, broaching, grinding, polishing, cutting and shaping, and planing. Grinding is the process using abrasive grains such as aluminum oxide, silicon carbide, and diamond to remove stock from a workpiece. Cleaning and stripping is a preparatory process involving solvents for the removal of oil, grease and dirt. Both alkaline and acid cleaning are employed. Surface treatment and plating is a major component that involves batching operations to increase corrosion or abrasion resistance. This is generally in the form of galvanizing. Painting is generally practiced at most facilities to provide decoration and protection to the product or item. Assembly is the fitting together of previously manufactured parts into a complete unit or structure.

Industrial activities and storm water management practices vary among the fabricating industry, mostly in the type of chemicals used in the processes and the final product. Some industries involve only dry operations and others include wet operations. Examples of products being fabricated in this industry include: aircraft engines, screws, nuts, bolts, automotive parts (drive shafts, struts, gears, rods), tanks, hand tools, doors, and bridge grates.

Many of the operations in this industry take place indoors. The major activities evaluated for purposes of storm water contamination and control measures include: waste storage, outside product storage, use of pickling acids, storage of cutoff scrap metal, aluminum scraps, hazardous materials, galvanized steel components, solvent storage, waste paper storage, machinery storage, used absorbent materials, wood materials dunnage/pallets, and maintenance of existing Best Management Practices (BMPs). The table below lists the most likely wastes to be generated at a steel fabricating facility.

TABLE AA–1.—WASTES GENERATED FROM FABRICATED METALS INDUSTRIES

Activity	Pollutant source	Pollutant
Tool workpiece interface/shaving, chipping	Used metal working fluid with fine metal dust	TSS, COD, oil and grease.
Parts/tools cleaning, sand blasting, metal surface cleaning, removal of applied chemicals.	Solvent cleaners abrasive cleaners, alkaline cleaners, acid cleaners, rinse waters.	Spent solvents, TSS, acid/alkaline waste, oil.
Making structural components	Cuttings, scraps, turnings, fines	Metals.
Painting operations	Paint and paint thinner spills, sanding, spray painting.	Paints, spent solvents, heavy metals, TSS.
Cleanup of spills and drips	Used absorbent materials	TSS, spilled material.
Transportation or storage of materials	Wood dunnage/pallets	BOD, TSS.

3. Storm Water Sampling Results

Based on the wide variety of industrial activities and significant materials at the facilities included in this sector, EPA believes it is appropriate to divide the fabricated metal industry into subsectors to properly analyze sampling data and determine monitoring requirements. As a result, this sector has been divided into the following subsectors: fabricated metal products except coating and fabricated metal coating and engraving.

Tables AA–2 and AA–3 below include data for the eight pollutants that all facilities were required to monitor for under Form 2F. The tables also list those parameters that EPA has determined merit further monitoring.

TABLE AA–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY CUTLERY, HANDTOOLS, AND GENERAL HARDWARE, FABRICATED STRUCTURAL METAL PRODUCTS, SCREW MACHINE PRODUCTS, AND BOLTS, NUTS, SCREWS, RIVETS, AND WASHERS, METAL FORGINGS AND STAMPINGS, ELECTROPLATING, PLATING, POLISHING, ANODIZING, AND COLORING, MISCELLANEOUS FABRICATED METAL PRODUCTS, JEWELRY, SILVERWARE, AND PLATED WARE MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	51	49	70	69	19.6	11.6	0.0	0.0	380.0	57.0	8.4	8.0	53.5	32.6	106.2	55.8
COD	51	48	70	68	143.2	115.2	0.0	0.0	1380.0	962.0	63.0	63.0	435.4	358.5	885.1	713.7
Nitrate + Nitrate Nitrogen	51	49	70	69	1.66	1.31	0.00	0.0	14.90	9.17	0.94	0.87	5.85	4.58	12.74	9.22
Total Kjeldahl Nitrogen	51	49	70	69	3.24	2.05	0.00	0.0	29.30	9.12	1.76	1.40	9.77	5.99	19.16	10.52
Oil & Grease	50	N/A	69	N/A	9.2	N/A	0.0	N/A	86.0	N/A	6.0	N/A	31.3	N/A	62.1	N/A
pH	45	N/A	63	N/A	N/A	N/A	3.3	N/A	9.0	N/A	7.1	N/A	9.4	N/1	10.7	N/A
Total Phosphorus	50	49	69	69	1.13	1.03	0.00	0.0	10.50	10.8	0.22	0.2	3.39	3.36	8.96	9.12
Total Suspended Solids	51	49	70	69	214	169	0	0	2340	3235	104	53	1014	650	2832	1801
Aluminum, Total	15	15	16	16	89.68	10.37	0.00	0.00	1400.0	130.00	0.96	0.92	74.83	24.71	385.47	80.82
Iron, Total	25	23	32	29	4.9	3.1	0.0	0.0	25.1	26.0	1.5	0.9	28.3	13.2	92.2	35.5
Zinc, Total	27	25	38	35	6.407	3.451	0.000	0.007	157.00	22.80	0.72	0.44	18.234	20.001	64.196	79.412

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[ii] Composite samples.

TABLE AA–3.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY COATING, ENGRAVING, AND ALLIED SERVICES FACILITIES SUBMITTING PART II SAMPLING DATA[1] (mg/L)

Pollutant Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[2]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	13	13	16	16	12.6	5.06	0.0	0.0	81.0	17.0	7.5	5.0	39.3	15.6	74.4	24.58
COD	13	13	16	17	68.8	52.3	12.0	0.0	320.0	160.0	45.0	49.0	194.4	262.7	349.4	559.3
Nitrate + Nitrite Nitrogen	13	13	16	17	1.82	1.60	0.21	0.0	7.70	12.5	0.96	0.80	5.84	4.44	10.01	8.57
Total Kjeldahl Nitrogen	13	13	16	17	2.36	1.52	0.06	0.0	7.90	5.2	1.35	0.89	6.87	4.41	12.12	7.08
Oil & Grease	13	N/A	16	N/A	1.7	N/A	0.0	N/A	9.0	N/A	0.0	N/A	9.4	N/A	10.2	N/A
pH	11	N/A	14	N/A	N/A	N/A	5.5	N/A	8.2	N/A	8.4	N/A	8.0	N/A	8.7	N/A
Total Phosphorus	13	13	16	17	1.91	0.90	0.00	0.0	10.00	10.0	0.16	0.15	8.50	2.77	23.91	9.37
Total Suspended Solids	13	13	16	17	112	56	0	0	481	280	26	21	474	272	1215	764
Zinc, Total	10	10	13	14	0.480	0.216	0.050	0.000	2.100	0.830	0.32	0.15	1.481	0.800	2.758	1.632

[1]Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be 0.
[2]Composite samples.

4. Options for Controlling Pollutants

The measures to control pollutants at metal fabricating operations should focus primarily on the storage of waste and raw materials; chemical storage areas; and equipment storage and service areas. Since most of the operations occur indoors, procedures are necessary in the handling and transporting of materials to minimize exposure of pollutants to storm water runoff. Of primary importance is the control of activities and use of chemicals that have been identified as potential sources of pollutants. The most effective discharge controls for these facilities are BMPs targeted toward source control. This includes utilizing inside storage as much as possible; and implementing programs for recycling scrap materials. Many of these practices require the use of covers, indoor storage, and indoor operations. Some structural measures would provide an additional control to reduce the potential for exposure at these facilities. These include source reduction diversion dikes, grass swales, vegetative covers, and sedimentation ponds. Preventive controls are typically low in cost and relatively easy to implement, as the majority of the facilities in this industry already employ these practices. In addition, directing flows to privately owned treatment works or retention ponds will be the most effective measure. The industry also must give consideration to the non-storm water discharges associated with improper disposal of materials from the indoor processes due to the extensive use of chemicals in the preparation and finishing phases of metal preparation and fabrication. The industry also involves grinding, welding, and sanding operations that will require special consideration to control potential pollutants that could accumulate and be subject to storm water runoff. Most of the measures commonly implemented to reduce pollutants in storm water associated with the fabricated metals industry are generally uncomplicated practices. Some of the practices may be predicated on the size of the operation, the types of processes that are exercised from a full-scale plant operation to a more specialized company that conducts only a portion of the operations usually found in the fabricating industry. Table AA–4 below is an outline of the most common activities and sources that may produce pollutants associated with different activities that routinely take place at fabricated metal industries. Following the table is a brief list of BMPs that EPA believes will help reduce and control the potential pollutant sources at fabricating facilities from contaminating storm water.

TABLE AA–4.—POLLUTANTS POTENTIALLY FOUND IN STORM WATER DISCHARGES ASSOCIATED WITH THE FABRICATED METAL INDUSTRY

Activity	Pollutant source	Pollutant
Metal preparation	Grinding, welding, sawing, shaving, brazing, bending, cutting, etching.	Steel scraps, aluminum scraps, brass, copper, dust, chips and borings, steel scale, teflon, manganese.
Parts cleaning	Solvents, cold and hot dips, cleaning parts, degreasing.	Acid, coolants, clean composition, degreaser, mineral spirits, pickle liquor, spent caustic, sludge.
Surface Treatment	Finishing, plating, case hardening, chemical coating, coating, polishing, rinsing, abrasive cleaning, electroplating.	Acid, aromatic solvent, corn cob, lubricants, sand, oil, pH, nitrates, nitrites, carbon, phosphates, borates, nitrogen, oily sludge, nickel, chromium, hydrofluoric acid.
Galvanizing	Spills, leaks, transporting materials	Acid solution, phosphates, zinc chromate, hexavalent chromium, nickel.
Painting	Empty containers, paint application wastes, spills, over spraying, storage areas.	Paint wastes, thinner, varnish, heavy metals, spent chlorinated solvents
Heavy equipment use and storage	Leaking fluids, fluids replacement, washing equipment, use on poor surface area, soil disturbance.	Oil, heavy metals, organics, fuels, TSS, hydraulic oil, diesel fuel, gasoline
Equipment maintenance	Leaking fluids, fluids replacement, washing equipment.	Oil, grease
Storage of uncoated structural steel	Stored on porous pavement	Aluminum, lead, zinc, copper, iron, oxide, oil, nickel, manganese.
Storing galvanized steel directly on the ground	Galvanizing material drippage or leaching	Metals: zinc, nickel, cadmium, chromium.
Vehicle/equipment traffic	Soil disturbance and erosion	TSS from erosion, hydraulic fluid loss/spillage
Cleaning equipment/vehicles	Chemicals disposed improperly, spillage	Oil, grease, surfactants, chromates, acid, hydroxide, nitric acid.

TABLE AA–4.—POLLUTANTS POTENTIALLY FOUND IN STORM WATER DISCHARGES ASSOCIATED WITH THE FABRICATED METAL INDUSTRY—Continued

Activity	Pollutant source	Pollutant
Storage areas	Unidentifiable drums, extended exposure to weather conditions, tank corrosion, open containers.	Benzene, toluene, xylene, pyrene, and other volatile organics, solvents.
Equipment usage	Malfunctioning equipment, stockpiled obsolete equipment.	Oil, grease, lead
Above ground storage tanks	Installation problems, spills, external corrosion and structural failure.	Fuel oil and various chemicals.

Table AA–4 above shows the potential pollutants that could end up in storm water runoff if the activities typically found at a fabricating facility are not handled properly. Many of the fabricating facilities in the group application indicated several of the activities listed as a part of the normal operations carried out at the facility. Many of the pollutants involved in these activities are potentially of concern if exposed to precipitation and storm water runoff. Consideration of control measures is needed to assure that the activities minimize exposure to the potential pollutants of concern as it relates to each activity identified and control the potential sources that may generate pollutants as part of the management practices used.

5. Special Conditions

The permit conditions that apply to the fabricated metals industry build upon the base permit requirements set forth in the front of today's permit. The discussion that follows, therefore, only addresses conditions that differ from those base requirements.

Due to the concern that many non-storm water discharges may be present at metal fabricators, EPA is requiring that all facilities provide proof that these discharges are not commingled and are appropriately controlled so as to protect all receiving waters.

Today's permit clarifies in Part XI.AA.2. (Prohibition of Non-storm Water Discharges) that non-storm water discharges, including metal fabricator operations, are not authorized by this section. The operators of such non-storm water discharges must obtain coverage under a separate National Pollutant Discharge Elimination System (NPDES) permit if discharged to waters of the United States or through a municipal separate storm sewer system. In a related requirement under the storm water pollution prevention plan requirements, the permittee is required to attach a copy of the NPDES permit issued for metal acid baths, sludge disposal, scrap disposal or recycling or, if an NPDES permit has not yet been issued, a copy of the pending application plan. Facilities that pretreat and discharge the waste water into a POTW system must notify the operator and a copy of the notification must be attached to the plan. With regard to all the acid baths, wash waters, and any other non-storm water discharges must be considered in the plan. Some facilities may use retention ponds, recycling, collecting and hauling as methods of disposal. Other facilities discharge into separate storm sewer systems. In these instances, the facility is required to attach the disposal plans and operations to the plan.

6. Storm Water Pollution Prevention Plan Requirements

Each storm water pollution prevention plan must stipulate activities, materials, and physical features of the facility that may contribute pollutants to storm water runoff or, during periods of dry weather, result in dry weather flows. The metals fabricating industry plan focuses primarily on storage areas, unloading and loading areas, and any other areas where outside operations occur.

Under the description of measures and controls in the storm water pollution prevention plan requirements, facilities are required to address the identified pollutant sources by identifying and implementing appropriate storm water pollution management controls. Such controls much address the areas listed below, as appropriate.

a. Facility Areas to be Addressed in the Storm Water Pollution Prevention Plan.

(1) Metal Fabricating Areas. These areas should be kept clean by frequent sweeping to avoid heavy accumulation of steel ingots, fines, and scrap. Dust is a byproduct of many processes in the fabricating areas and therefore should be absorbed through a vacuum system to avoid accumulation on roof tops and onto the ground. Tracking of metal dusts and metal fines outdoors may be minimized by employing these management practices: sweep on a regular basis all accessible paved areas; maintain floors in a clean and dry condition; remove waste and dispose of regularly; remove obsolete equipment expeditiously; sweep fabrication areas; and train employees on good housekeeping measures.

(2) Storage Areas for Raw Metal. The storage of raw materials should be under a covered area whenever possible and protected from contact with the ground. The amount of material stored should be minimized to avoid corrosive activity from long-term exposed materials. Diking or berming the area to prevent or minimize runon may be considered. Long-term exposure to weather conditions results in oxidation of the metals. Also, dirt, oil, and grease buildup on the metal are potential sources of pollutants. The following measures should be considered: check raw metals for corrosion; keep area neat and orderly, stack neatly on pallets or off the ground; and cover exposed materials.

(3) Receiving, Unloading, and Loading Areas. These areas should be enclosed where feasible using either curbing, berming, diking or other accepted containment systems in case of spills during delivery of chemicals such as lubricants, coolants, rust preventatives, solvents, oil, sodium hydroxide, hydrochloric acid, calcium chloride, polymers, sulfuric acid, and other chemicals used in the metal fabricating processes. Directing roof down spouts away from loading sites and equipment and onto grassy or vegetated areas should help prevent storm water contamination by pollutants that have accumulated in these areas. The following measures should be considered: clean up spills immediately; check for leaks and remedy problems regularly; and unload under covered areas when possible.

(4) Storage of Heavy Equipment. Vehicles should be stored indoors when possible. If stored outdoors the use of gravel, concrete or other porous surfaces should be considered to minimize or prevent heavy equipment from creating ditches or other conveyances that would

cause sedimentation runoff and increase TSS loadings. Also directing the flow toward the area by the use of grass swales or filter strips will reduce the runoff of materials. Directing drainage systems away from high traffic areas into collection systems will help to reduce the TSS loadings caused by exposed and eroding open areas. The following measures should be considered: clean prior to storage or store under cover; store indoors; and divert drainage to the grass swales, filter strips, retention ponds, or holding tanks.

(5) Metal Working Fluid Areas. Due to the toxicity of metal working fluids as well as the contamination of fluids by metal fines and dusts, spillage and loss of metal working fluids used to cleanse or prepare the steel components should be controlled throughout the process. Collection systems and storage areas need special consideration. The following measures should be considered: store used metal working fluid with fine metal dust indoors; use tight sealing lids on all fluid containers; use straw, clay absorbents, sawdust, or synthetic absorbents to confine or contain any spills, or other absorbent material; and establish recycling programs for used fluids when possible.

(6) Unprotected Liquid Storage Tanks. Storing these tanks (this does not include products that are gaseous at atmospheric pressure) indoors will reduce potential waste or spills from contaminating storm water. Berming outdoor areas when unable to store inside will contain potential pollutants. Cleaning up spills is essential to minimizing buildup in these areas. EPA believes that this will significantly reduce the potential for major discharges into the water of the United States during storm runoff. The following measures should be considered: cover all tanks whenever possible; berm tanks whenever possible; dike area or install grass filters to contain spills; keep area clean; and check piping, valves and other related equipment on a regular basis.

(7) Chemical Cleaners and Rinse Water. Proper disposal and use of cleaners in various activities will minimize the amount of liquid exposed to storm water by reducing the need to store contaminated liquids for an extended period of time. Controlling potential contamination of pollutants by employing simple control devices during the activity will prevent potential contamination in storm water runoff. Recycling or reuse of these materials whenever possible serves as a source reduction by reducing the necessary amount of new materials. The following measures should be considered: use drip pans and other spill devices to collect spills or solvents and other liquid cleaners; recycle waste water; store recyclable waste indoors or in covered containers; and substitute nontoxic cleaning agents when possible.

(8) Raw Steel Collection Areas. The collection areas must be kept clean. Materials should be kept in a covered storage bin or kept inside until pickup. The use of pitched-structures should be considered. The following measures should be considered: collect scrap metals, fines, iron dust and store under cover and recycle.

(9) Paints and Painting Equipment. Facilities using tarps, drip pans, or other spill collection devices to contain and collect spills of paints, solvents or other liquid material. Blasting in windy weather increases the potential for runoff. Enclosing outdoor sanding areas with tarps or plastic sheeting contains the metal fines. Immediate collection of any waste and proper disposal may significantly contribute to the reduction of storm water runoff. Training employees to use the spray equipment properly may reduce waste and decrease the likelihood of accidents, as well as, reduce the amount of solvents needed to complete the job. The following measures should be considered: paint and sand indoors when possible; avoid painting and sandblasting operations outdoors in windy weather conditions; if done outside, enclose sanding and painting areas with tarps or plastic sheeting; and use water-based paints when possible.

(10) Vehicle and Equipment Maintenance Areas. Changing fluids or parts should be done indoors when possible. If maintenance is performed outdoors, fluids used in maintaining these vehicles should be contained in the area by using drip pans, large plastic sheets, canvas or other similar controls under the vehicles, or berming the area. Hydraulic fluids should be properly stored to prevent leakage and storm water contamination. The following measures should be considered: berm area or use other containment device to control spills; use drip pans, plastic sheeting and other similar controls; and discard fluids properly or recycle if possible.

(11) Hazardous Waste Storage Areas. All hazardous waste must be stored in sealed drums. Establishing centralized drum-storage satellite areas throughout the complex to store these materials will decrease the potential for mishandling drums. Berming the enclosed structures is added protection in case of spills. Spills or leaks that are contained within an area are easier to contain and prevent storm water contamination or runoff. Checks for corrosion and leakage of storage containers is important. Proper labeling for proper handling should be considered. All other applicable Federal, State, and local regulations must be followed. The following measures should be considered: store indoors; label materials clearly; check for corrosion and leaking; properly dispose of outdated materials; dike or use grass swales, ditches or other containment to prevent runon or runoff in case of spills; post notices prohibiting dumping of materials into storm drains; store containers, drums, and bags away from direct traffic routes; do not stack containers in such a way as to cause leaks or damage to the containers; use pallets to store containers when possible; store materials with adequate space for traffic without disturbing drums; maintain low inventory level of chemicals based on need.

(12) Transporting Chemicals to Storage Areas. Proper handling of drums is needed to avoid damaging drums causing leaks. Storage areas should be as close as possible to operational buildings. The following measures should be considered: forklift operators should be trained to avoid puncturing drums; store drums as close to operational building as possible; and label all drums with proper warning and handling instructions.

(13) Finished Products (Galvanized) Storage. Improper storage of finished products can contribute pollutants to storm water discharges. Materials should be stored in such a way to minimize contact with precipitation and runoff. The following measures should be considered: store finished products indoors, on a wooden pallets concrete pad, gravel surface, or other impervious surface.

(14) Wooden Pallets and Empty Drums. The following measures should be considered: clean contaminated wooden pallets; cover empty drums; cover contaminated wooden pallets; store drums and pallets indoors; clean empty drums; and store pallets and drums on concrete pads.

(15) Retention Ponds (Lagoon). Creating and maintaining retention ponds as a treatment system for settling out TSS would help to reduce the concentrations of these pollutants in storm water runoff. The following measures should be considered: provide routine maintenance; remove excess sludge periodically; and aerate periodically to maintain pond's aerobic character and ecological balance.

b. Comprehensive Site Compliance Evaluation. The storm water pollution prevention plan must describe the scope

and content of comprehensive site evaluations that qualified personnel will conduct to (1) confirm the accuracy of the description of potential pollution sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of this section. Comprehensive site compliance evaluations should be conducted at least once a year. The individual or individuals that will conduct the evaluations must be identified in the plan and should be members of the pollution prevention team. Evaluation reports must be retained for at least 3 years after the date of the evaluation.

Based on the results of each evaluation, the description of potential pollution sources, and measures and controls, the plan must be revised as appropriate within 2 weeks after each evaluation. Changes in the measures and controls must be implemented on the site in a timely manner, and never more than 12 weeks after completion of the evaluation.

7. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B. of today's permit.

8. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. EPA believes that fabricated metal and processing facilities may reduce the level of pollutants in storm water runoff from their sites through the development and proper implementation of the storm water pollution prevention plan requirements discussed in today's final permit. In order to provide a tool for evaluating the effectiveness of the pollution prevention plan and to characterize the discharge for potential environmental impacts, Tables AA–5 and AA–6 list the pollutants that fabricated metal products except coating and fabricated metal coating and engraving facilities are required to analyze for in their storm water discharges in accordance with the activities onsite. The pollutants listed in Tables AA–5 and AA–6 were found to be above levels of concern for a significant portion of fabricating facilities that submitted quantitative data in the group application process. Because these pollutants have been reported at levels of concern from fabricated metal and processing facilities, EPA is requiring monitoring after the pollution prevention plan has been implemented to assess the effectiveness of the pollution prevention plan and to help ensure that a reduction of pollutants is realized.

Permittees can exercise the alternative certification on a pollutant-by-pollutant basis as described under Section 8.b. If there are any pollutant(s) for which the facility is unable to certify to no exposure the facility must, at a minimum, monitor storm water discharges on a quarterly basis during the second year of permit coverage. Samples must be collected at least once in each of the following periods: January through March; April through June; July through September; and October through December. At the end of the second year of permit coverage, a facility must calculate the average concentration for each parameter listed in the applicable table (Table AA–5 or Table AA–6). If the permittee collects more than four samples in this period, then they must calculate an average concentration for each pollutant of concern for all samples analyzed.

TABLE AA–5.—MONITORING REQUIREMENTS FOR FABRICATED METAL PRODUCTS EXCEPT COATING

Pollutants of concern	Monitoring cut-off concentration
Total Recoverable Iron	1.0 mg/L.
Total Recoverable Zinc	0.065 mg/L.
Total Recoverable Aluminum	0.75 mg/L.
Nitrate plus Nitrite Nitrogen	0.68 mg/L.

TABLE AA–6.—MONITORING REQUIREMENTS FOR FABRICATED METAL COATING AND ENGRAVING

Pollutants of concern	Monitoring cut-off concentration
Total Recoverable Zinc	0.065 mg/L.
Nitrate plus Nitrite Nitrogen	0.68 mg/L.

If the average concentration for a parameter is less than or equal to the appropriate cut-off concentration, then the permittee is not required to conduct quantitative analysis for that parameter during the fourth year of the permit. If, however, the average concentration for a parameter is greater than the cut-off concentration listed in Table AA–5 or Table AA–6, then the permittee is required to conduct quarterly monitoring for that parameter during the fourth year of permit coverage. Monitoring is not required during the first, third, and fifth year of the permit. The exclusion from monitoring in the fourth year of the permit is conditional on the facility maintaining industrial operations and BMPs that will ensure a quality of storm water discharges consistent with the average concentrations recorded during the second year of the permit.

TABLE AA–7.—SCHEDULE OF MONITORING

2nd Year of Permit Coverage.	• Conduct quarterly monitoring. • Calculate the average concentration for all parameters analyzed during this period. • If average concentration is greater than the value listed in Tables AA–5 or AA–6, then quarterly sampling is required during the fourth year of the permit. • If average concentration is less than or equal to the value listed in Tables AA–5 or AA–6, then no further sampling is required for that parameter.
4th Year of Permit Coverage.	• Conduct quarterly monitoring for any parameter where the average concentration in year 2 of the permit is greater than the value listed in Tables AA–5 or AA–6. • If industrial activities or the pollution prevention plan have been altered such that storm water discharges may be adversely affected, quarterly monitoring is required for all parameters of concern.

In cases where the average concentration of a parameter exceeds the cut-off concentration, EPA expects permittees to place special emphasis on methods for reducing the presence of those parameters in storm water discharges. Quarterly monitoring in the fourth year of the permit will reassess the effectiveness of the adjusted pollution prevention plan.

The monitoring cut off concentrations listed in Tables AA–5and AA–6 are not numerical effluent limitations. These values represent a level of pollutant discharge which facilities may achieve through the implementation of pollution prevention plans. At least half of the facilities which submitted Part 2 data, reported concentrations greater than or

equal to the values listed in the applicable table (Tables AA–5 or AA–6). Facilities that achieve average discharge concentrations which are less than or equal to the appropriate cut-off concentration values are not relieved from the pollution prevention plan requirements or any other requirements of the permit.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling.

b. Alternative Certification. Throughout today's permit, EPA has included monitoring requirements for facilities which the Agency believes have the potential for contributing significant levels of pollutants to storm water discharges. The alternative described below is necessary to ensure that monitoring requirements are only imposed on those facilities that do, in fact, have storm water discharges containing pollutants at concentrations of concern. EPA has determined that if materials and activities are not exposed to storm water at the site, then the potential for pollutants to contaminate storm water discharges does not warrant monitoring.

Therefore, a discharger is not subject to the monitoring requirements of this Part provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of monitoring described in Tables AA–5 and AA–6, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity that are located in areas of the facility that are within the drainage area of the outfall are not presently exposed to storm water and will not be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan and submitted to EPA. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph *c* below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

c. Reporting Requirements. Permittees are required to submit all monitoring results obtained during the second and fourth year of permit coverage within 3 months of the conclusion of each year. For each outfall, one signed Discharge Monitoring Report Form must be submitted per storm event sampled. For facilities conducting monitoring beyond the minimum quarterly requirements an additional Discharge Monitoring Report Form must be filed for each analysis.

d. Sample Type. All discharge data shall be reported for grab samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

If storm water discharges associated with industrial activity commingle with process or non-process water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

e. Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

f. Quarterly Visual Examination of Storm Water Quality. Quarterly visual examinations of storm water discharges from each outfall are required at fabricated metal products facilities. The examinations must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examinations must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examinatión must be made at least once in each of the following periods during daylight, unless there is insufficient rainfall or snow-melt to runoff: January through March; April through June; July through September; and October through December. Where practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 60 minutes) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will allow the permittee to approximate the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

AB. Storm Water Discharges Associated With Industrial Activity From Facilities That Manufacture Transportation Equipment, Industrial, or Commercial Machinery

1. Industry Profile

On November 16, 1990 (55 FR 47990), EPA promulgated the regulatory definition of "storm water discharge associated with industrial activity." This definition includes point source discharges of storm water from eleven categories of facilities, including "* * * (xi) facilities classified as Standard Industrial Classification (SIC) codes * * * 35 (except SIC 357), 37 (except SIC 373), * * *" Facilities eligible for coverage under this section of today's permit include the following manufacturing facilities: engines and turbines (SIC Code 351); farm and garden machinery and equipment (SIC Code 352); construction, mining, and materials handling machinery and equipment (SIC Code 353); metalworking machinery and equipment (SIC Code 354); special industry machinery, except metalworking machinery (SIC Code 355); general industrial machinery and equipment (SIC Code 356); refrigeration and service industry machinery (SIC Code 358); miscellaneous industrial and commercial machinery and equipment (SIC Code 359); motor vehicles and motor vehicle equipment (SIC Code 371); aircraft and parts (SIC Code 372); motorcycles, bicycles, and parts (SIC Code 375); guided missiles and space vehicles and parts (SIC Code 376); and miscellaneous transportation equipment (SIC Code 379).

This section establishes special conditions for storm water discharges associated with industrial activities at facilities which manufacture transportation equipment, industrial or commercial machinery. The SIC codes of these facilities are in category (xi) of the definition of storm water discharges associated with industrial activity. Storm water discharges from facilities in this category are only regulated where precipitation or storm water runon come into contact with areas associated with industrial activities, and significant materials. Significant materials include, but are not limited to, raw materials, waste products, fuels, finished products, intermediate products, by-products, and other materials associated with industrial activities.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

There are approximately 14,000 facilities which handle and process ferrous and nonferrous metals to manufacture transportation equipment, industrial or commercial machinery. These facilities vary in size, age, number of employees and the types of operations performed. The manufacturing processes for these facilities are similar, although the finished products may vary. The general manufacturing process is conducted indoors, and includes activities such as cutting, shaping, grinding, cleaning, coating, forming, and finishing. Specific processes are referred to as "unit operations," and there are approximately 45 unit operations utilized by facilities that manufacture transportation equipment, industrial, or commercial machinery. Since these operations occur predominately indoors, contamination of storm water discharges from the manufacturing process is unlikely. Unit operations include the following: electroplating, electroless plating, anodizing, chemical conversion coating, etching and chemical milling, cleaning, machining, grinding, polishing, barrel finishing, burnishing, impact deformation, pressure deformation, shearing, heat treating, thermal cutting, welding, brazing, soldering, flame spraying, sand blasting, abrasive jet machining, electrical discharge machining, electrochemical machining, electron beam machining, laser beam machining, plasma arc machining, ultrasonic machining, sintering, laminating, hot dip coating, sputtering, vapor plating, thermal infusion, salt bath descaling, solvent degreasing, paint stripping, painting, electrostatic painting, electropainting, vacuum metalizing, assembly, calibration, testing, and mechanical plating.

Facilities which manufacture transportation equipment, industrial and commercial machinery will utilize many of the same unit operations listed above. Aside from the specific unit operations, other types of industrial activity are shared by facilities covered by this section. For example, the majority of these facilities have outdoor material handling and storage activities, and share the same types of raw, scrap, and waste materials.

The primary raw materials utilized by this industry group include ferrous and nonferrous metals, such as aluminum, copper, iron, steel and alloys of these metals; either in raw form or as intermediate products. These metals are typically received at loading/unloading docks and are taken to outdoor storage areas (e.g., stockpiles, holding bins) before manufacturing.

Besides metals, other raw materials are utilized in the manufacturing process. These materials include paints, solvents (e.g., paint thinners, degreasers), chemicals (e.g., acids, bases, liquid gases), fuels (e.g., gasoline and diesel fuel), lubricating and cutting oils, and plastics. These materials are typically stored in bins, tanks, and/or 55 gallon drums outdoors on wooden pallets or concrete pads. They are used during the unit operations to cool and lubricate the metals (oils), clean metal parts (solvents, acids, bases), and coat metal parts before shipment (plastics, paints). Intermediate products are also sometimes stored outdoors before shipment or further manufacturing.

These products may have residues of oils, solvents and metal particles, which are potential sources of pollutants to storm water discharges. Similarly, scrap metal will have the same residues, and is almost always stored outdoors in bins before being sold to scrap metal recyclers.

The manufacturing process produces several types of hazardous and nonhazardous wastes. Hazardous wastes including paint wastes, solvent wastes, and sludge wastes are generated in small quantities at the facilities within this industrial group. Paint wastes result from painting operations and consist of paints and paint thinners. Solvent wastes result from metal cutting, shaping, and cleaning operations. As the metals are manufactured into different parts and treated with various chemicals, the different assembly parts must be cleaned with solvents to remove any chemical residues and rinsed with water. The metal parts are subject to more cleaning with detergents to remove the solvents and chemical residues and rinsed again with water to remove the detergents. Sludge wastes are generated when wastewater discharges from painting, plating, finishing and parts cleaning operations are treated, and is generally shipped offsite for disposal. Hazardous wastes are stored in 55 gallon drums outdoors before shipment and may be exposed to storm water discharges.

Nonhazardous wastes from this industry group include glass, tires, used wooden pallets, used equipment and machinery, as well as plastics and rubber wastes. All of these waste materials are stored outdoors and have the potential to pollute storm water discharges. Storm water runoff from these materials could include solids, oils, solvents and other pollutants generated in the manufacturing process.

Air emissions from stacks and ventilation systems are potential areas for exposure of materials to storm water discharges. Facilities which have high levels of engine exhaust from the manufacturing equipment, paint residue, and particulates in fumes from metal processing activities such as cutting, grinding, shaping, and welding, are subject to having particulate in the air emissions that may pollute storm water discharges.

Material handling activities such as loading and unloading areas may be exposed to storm water discharges. These are areas where significant materials are received and shipped at the facilities. Exposure of these materials to storm water may be minimized by having shipping/receiving areas under cover.

For those facilities engaged in fueling and vehicle maintenance, gasoline and diesel fuel are frequently stored outdoors in aboveground storage tanks and 55 gallon drums. Most vehicles and equipment also require oil, hydraulic fluids, antifreeze, and other fluids that may leak and contaminate storm water discharges. The discharges from these areas are addressed elsewhere in today's permit.

2. Pollutants Found in Storm Water Discharges From Facilities Which Manufacture Transportation Equipment, Industrial or Commercial Machinery

The impact of industrial activities at facilities which manufacture transportation equipment, industrial or commercial machinery on storm water discharges will vary. Factors at a site which influence the water quality include geographic location, hydrogeology, the industrial activities exposed to storm water discharges, the facility's size, the types of pollution prevention measures/best management practices in place, and the type, duration, and intensity of storm events. Taken together or separately, these factors determine how polluted the storm water discharges will be at a given facility. For example, scrap piles may be a significant source of pollutants at some facilities, while particulate stack emissions may be the primary pollutant source at others. Additionally, pollutant sources other than storm water, such as illicit connections, spills, and other improperly dumped materials, may increase the pollutant loading discharged into Waters of the United States.

Table AB–1 lists industrial activities that commonly occur at transportation equipment, industrial or commercial machinery manufacturers, the pollutant sources at these facilities, and pollutants that are associated with these activities. Table AB–1 identifies oil and grease, TSS, organics, and other parameters as potential pollutants associated with facilities covered by this section.

TABLE AB–1.—DESCRIPTION OF INDUSTRIAL ACTIVITIES, POTENTIAL POLLUTANT SOURCES, AND POSSIBLE POLLUTANTS

Activity	Pollutant source	Pollutants
Outdoor Material Loading/Unloading	Wooden pallets, castings, foundry sand, limestone, spills/leaks from material handling equipment, solvents.	TSS, turbidity, dust, oil and grease, organics.
Outdoor Material and Equipment Storage.	Foundry sand, limestone, used equipment, above ground tanks, scrap metal, oil and grease, raw materials (e.g., aluminum, steel, iron, copper), castings, solvents, acids, and paints.	TSS, turbidity, dust, oil and grease, heavy metals, and organics.

Source: NPDES Storm Water Group Applications—Part 1. Received by EPA, March 18, 1991 through December 31, 1992.

Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at industrial and commercial machinery and transportation equipment manufacturing facilities as a whole and not subdivide this sector. Therefore, Table AB–2 lists data for selected parameters from facilities in the industrial and commercial machinery and transportation equipment manufacturing sector. These data include the eight pollutants that all facilities were required to monitor for under Form 2F, as well as any additional pollutants with median concentrations higher than the benchmarks.

TABLE AB–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY INDUSTRIAL AND COMMERCIAL MACHINERY AND TRANSPORTATION EQUIPMENT MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant / Sample type	No. of facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	118	113	207	199	12.5	7.32	0.0	0.0	513.0	226.0	6.0	5.0	33.3	23.10	63.8	43.90
COD	119	114	204	194	68.2	47.20	0.0	0.0	940.0	610.0	37.6	30.50	228.9	142.4	469.7	261.9
Nitrate + Nitrite Nitrogen	119	113	206	193	1.13	1.20	0.00	0.0	19.20	28.0	0.58	0.46	4.00	3.74	8.79	8.43
Total Kjeldahl Nitrogen	118	113	204	194	2.30	1.68	0.00	0.0	55.00	30.0	1.30	1.00	6.57	4.57	12.68	8.11
Oil & Grease	122	N/A	213	N/A	7.1	N/A	0.0	N/A	223.0	N/A	0.0	N/A	28.1	N/A	92.6	N/A
pH	113	N/A	201	N/A	N/A	N/A	4.1	N/A	9.1	N/A	7.1	N/A	8.6	N/A	9.5	N/A
Total Phosphorus	120	115	206	198	0.50	0.48	0.00	0.00	42.00	19.0	0.15	0.13	1.21	1.17	2.70	2.66
Total Suspended Solids	117	112	203	194	153	97	0	0	6453	3600	30	19	507	339	1501	1022
Zinc, Total	61	57	109	103	0.515	0.354	0.000	0.000	8.800	9.000	0.21	0.14	2.070	1.836	5.443	3.297

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as nondetect or below detection limit were assumed to be 0.
[ii] Composite samples.

3. Options for Controlling Pollutants

In evaluating options for controlling pollutants in storm water discharges, EPA must achieve compliance with the technology-based standards of the Clean Water Act (Best Available Technology (BAT) and Best Conventional Technology). The Agency does not believe that it is appropriate to establish specific numeric effluent limitations or a specific design or performance standard in this sections for storm water discharges associated with industrial activity from facilities which manufacture transportation equipment, industrial or commercial machinery to meet BAT/BCT standards of the Clean Water Act. Instead, this section establishes requirements for the development and implementation of site-specific storm water pollution prevention plans consisting of a set of Best Management Practices (BMPs) that are sufficiently flexible to address different sources of pollutants at different sites.

Certain BMPs are implemented to prevent and/or minimize exposure of pollutants from industrial activities to storm water discharges. EPA believes the most effective BMPs for reducing pollutants in storm water discharges are exposure minimization practices. Exposure minimization practices lessen the potential for storm water to come into contact with pollutants. Good housekeeping practices ensure that facilities are sensitive to routine and nonroutine activities which may increase pollutants in storm water discharges. The BMPs which address good housekeeping and exposure minimization are easily implemented, inexpensive, and require little, if any, maintenance. BMP expenses may include construction of roofs for storage areas or other forms of permanent cover and the installation of berms/dikes. Other BMPs such as detention/retention ponds and filtering devices may be needed at these facilities because of the contaminant level in the storm water discharges. The types of BMPs implemented will depend on the type of discharge, types and concentrations of contaminants, and the volume of the flow.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, geology/hydrology and the environmental setting of each facility, and volume and type of discharge generated. Each facility will be unique in that the source, type, and volume of contaminated storm water discharges will differ. In addition, the fate and transport of pollutants in these discharges will vary. EPA believes that the management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with transportation equipment, industrial or commercial machinery manufacturers.

Part 1 group application data indicate that BMPs have not been widely implemented at the representative sampling facilities. Less than 25 percent of the sampling subgroup reported that they store some materials indoors; less than 10 percent cover loading areas, dumpsters, drums, or above ground tanks; less than 5 percent of the representative facilities utilize waste minimization practices (e.g., recycling or reusing materials).[101] Because BMPs described in part 1 data are limited, the following table is provided to identify BMPs that should be considered at facilities which manufacture transportation equipment, industrial or commercial machinery.

TABLE AB–3.—GENERAL STORM WATER BMPS FOR FACILITIES WHICH MANUFACTURE TRANSPORTATION EQUIPMENT, INDUSTRIAL, OR COMMERCIAL MACHINERY

Activity	Best management practices (BMPs)
Outdoor Unloading and Loading	Confine loading/unloading activities to a designated area. Consider performing loading/unloading activities indoors or in a covered area. Consider covering loading/unloading area with permanent cover (e.g., roofs) or temporary cover (e.g., tarps). Close storm drains during loading/unloading activities in surrounding areas. Avoid loading/unloading materials in the rain. Inspect the unloading/loading areas to detect problems before they occur. Inspect all containers prior to loading/unloading of any raw or spent materials. Consider berming, curbing, or diking loading/unloading areas. Use dry clean-up methods instead of washing the areas down. Train employees on proper loading/unloading techniques.
Outdoor Material Storage (including waste, and particulate emission management).	Confine storage of materials, parts, and equipment to designated areas.

[101] These percentages were based on the information reported in the Part 1 group applications. However, some facilities which utilize these BMPs as part of their daily activities may not recognize these practices as BMPs and as a result did not report this information in their applications.

TABLE AB–3.—GENERAL STORM WATER BMPS FOR FACILITIES WHICH MANUFACTURE TRANSPORTATION EQUIPMENT, INDUSTRIAL, OR COMMERCIAL MACHINERY—Continued

Activity	Best management practices (BMPs)
	Consider curbing, berming, or diking all liquid storage areas. Train employees on proper waste control and disposal. Consider covering tanks. Ensure that all containers are closed (e.g., valves shut, lids sealed, caps closed). Wash and rinse containers indoors before storing them outdoors. If outside or in covered areas, minimize runon of storm water by grading the land to divert flow away from containers. Inventory all raw and spent materials. Clean around vents and stacks. Place tubs around vents and stacks to collect particulate. Inspect air emission control systems (e.g., baghouses) regularly, and repair or replace when necessary. Store wastes in covered, leak proof containers (e.g., dumpsters, drums). Consider shipping all wastes to offsite landfills or treatment facilities. Ensure hazardous waste disposal practices are performed in accordance with Federal, State, and local requirements.

Sources: NPDES Storm Water Group Applications—Part 1. Received by EPA, March 18, 1991 through December 31, 1992.
EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.

4. Special Conditions

There are no additional requirements under this section other than those stated in Part III of today's permit .

5. Storm Water Pollution Prevention Plan Requirements

EPA believes that pollution prevention is the most effective approach for controlling contaminated storm water discharges from facilities which manufacture transportation equipment, industrial or commercial machinery. The requirements included in the pollution prevention plans provide a flexible framework for the development and implementation of site-specific controls to minimize the pollutants in storm water discharges. This flexibility is necessary because each facility is unique in that the source, type, and volume of contaminated storm water discharge will vary from site to site.

Under today's permit, all facilities must prepare and implement a storm water pollution prevention plan. The pollution prevention plan requirement reflects EPA's decision to allow operators of transportation equipment, industrial or commercial machinery manufacturing facilities to utilize BMPs as the BAT/BCT level of control for the storm water discharges covered by this section.

There are two major objectives of a pollution prevention plan: 1) to identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from a facility; and 2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity from a facility.

Specific requirements for a pollution prevention plan for transportation equipment, industrial or commercial machinery manufacturing facilities are described below. These requirements must be implemented in addition to the common pollution prevention plan provisions discussed in section VI.C. of today's fact sheet.

a. Contents of the Plan. Storm water pollution prevention plans are intended to aid operators of transportation equipment, industrial or commercial machinery manufacturing facilities to evaluate all potential prevention sources at a site, and assist in the selection and implementation of appropriate measures designed to prevent, or control, the discharge of pollutants in storm water runoff. EPA has developed guidance entitled "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices," EPA, 1992, (EPA 832–R–92–006) to assist permittees in developing and implementing pollution prevention measures.

(1) Description of Potential Pollutant Sources. Each storm water pollution prevention plan must describe activities, materials, and physical features of the facility that may contribute pollutants to storm water runoff or, during periods of dry weather, result in dry weather flows. This assessment of potential storm water pollutant source will support subsequent efforts to identify and set priorities for necessary changes in materials, materials management practices, or site features, as well as aid in the selection of appropriate structural and nonstructural control techniques. Plans must describe the following elements:

(a) Site Map—The plan must contain a map of the site that shows the pattern of storm water drainage, structural and nonstructural features that control pollutants in storm water runoff and process wastewater discharges, surface water bodies (including wetlands), places where significant materials [102] are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. The map must also indicate the direction of storm water flow. An outline of the drainage area for each outfall must be provided; and the location of each outfall and monitoring points must be indicated. An estimate of the total site acreage utilized for each industrial activity (e.g., storage of raw materials, waste materials, and used equipment) must be provided. These areas include liquid storage tanks, stockpiles, holding bins, used equipment, and empty drum storage.

[102] Significant materials include, "* * * but [are] not limited to: raw materials, fuels, materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; * * * hazardous substances designated under section 101(14) of CERCLA; any Chemical facilities are required to report pursuant to section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharge." (40 CFR 122.26(b)(12)). Significant materials commonly found at transportation equipment, industrial or commercial machinery manufacturing facilities include raw and scrap metals; solvents; used equipment; petroleum based products; waste materials or by-products used or created by the facility.

These areas are considered to be significant potential sources of pollutants at facilities which manufacture transportation equipment, industrial or commercial machinery. The site map must also indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls (e.g. storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

(b) Inventory of Exposed Materials—Facility operators are required to carefully conduct an inspection of the site to identify significant materials that are or may be exposed to storm water discharges. The inventory must address materials that within 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit have been handled, stored, processed, treated, or disposed of in a manner to allow exposure to storm water. Findings of the inventory must be documented in detail in the pollution prevention plan. At a minimum, the plan must describe the method and location of onsite storage or disposal; practices used to minimize contact of materials with precipitation and runoff; existing structural and nonstructural controls that reduce pollutants in storm water; existing structural controls that limit process wastewater discharges; and any treatment the runoff receives before it is discharged to surface waters or through a separate storm sewer system. The description must be updated whenever there is a significant change in the type or amounts of materials, or material management practices, that may affect the exposure of materials to storm water.

(c) Significant Spills and Leaks—The plan must include a list of any significant spills and leaks of toxic or hazardous pollutants that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of reportable quantities under Section 311 of CWA (see 40 CFR Section 110.10 and Section 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR Section 302.4). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements and releases of materials that are not classified as oil or a hazardous substance.

(d) Non-storm Water Discharges—Each pollution prevention plan must include a certification, signed by an authorized individual, that discharges from the site have been tested or evaluated for the presence of non-storm water, the results of any test and/or evaluation conducted to detect such discharges, the test method or evaluation criteria used, the dates on which tests or evaluations were performed, and the onsite drainage points directly observed during the test or evaluation. Pollution prevention plans must identify and ensure the implementation of appropriate pollution prevention measures for any non-storm water discharges.

(e) Sampling Data—Any existing data describing the quality or quantity of storm water discharges from the facility must be summarized in the plan. The description should include a discussion of the methods used to collect and analyze the data. Sample collection points should be identified in the plan and shown on the site map.

(f) Summary of Potential Pollutant Sources—The description of potential pollutant sources should clearly point to activities, materials, and physical features of the facility that have a reasonable potential to contribute significant amounts of pollutants to storm water. Any such activities, materials, or features must be addressed by the measures and controls subsequently described in the plan. In conducting the assessment, the facility operator must consider the following activities: raw materials (liquid storage tanks, stockpiles, holding bins), waste materials (empty drum storage), and used equipment storage areas. The assessment must list any significant pollutant parameter(s) (i.e., total suspended solids, oil and grease, etc.) associated with each source.

(2) Measures and Controls. Permittees must select, describe, and evaluate the pollution prevention measures, BMPs, and other controls that will be implemented at the facility. Source reduction measures include preventive maintenance, spill prevention, good housekeeping, training, and proper materials management. If source reduction is not an option, EPA supports the use of source control measures. These include BMPs such as material covering, water diversion, and dust control. If source reduction or source control are not available, then recycling or waste treatment are other alternatives. Recycling allows the reuse of storm water, while treatment lowers pollutant concentrations prior to discharge. Since the majority of transportation equipment, industrial or commercial machinery manufacturing occurs indoors, the BMPs identified above are geared towards only those activities occurring outdoors or otherwise have a potential to contribute pollutants to storm water discharges.

Pollution prevention plans must discuss the reasons each selected control or practice is appropriate for the facility and how each of the potential pollutant sources will be addressed. Plans must identify the time during which controls or practices will be implemented, as well the effect the controls or practices will have on storm water discharges from the site. At a minimum, the measures and controls must address the following components:

(a) Good Housekeeping—Permittees must describe protocols established to reduce the possibility of mishandling chemicals or equipment and training employees in good housekeeping techniques. Specifics of this plan must be communicated to appropriate plant personnel.

(b) Preventive Maintenance—Permittees are required to develop a preventive maintenance program that includes regular inspections and maintenance of storm water BMPs. Inspections should assess the effectiveness of the storm water pollution prevention plan. They allow facility personnel to monitor the components of the plan on a regular basis. The use of a checklist is encouraged, as it will ensure that all of the appropriate areas are inspected and provide documentation for recordkeeping purposes.

(c) Spill Prevention and Response Procedures—Permittees are required to identify proper material handling procedures, storage requirements, containment or diversion equipment, and spill removal procedures to reduce exposure of spills to storm water discharges. Areas and activities which are high risks for spills at transportation equipment, industrial or commercial machinery manufacturing facilities include raw material unloading and product loading areas, material storage areas, and waste management areas. These activities and areas and their drainage points must be described in the plan.

(d) Inspections—Qualified personnel must inspect designated equipment and areas of the facility at the proper intervals specified in the plan. The plan should identify areas which have the potential to pollute storm water for periodic inspections. Records of inspections must be maintained onsite.

(e) Employee Training—Permittees must describe a program for informing and educating personnel at all levels of

responsibility of the components and goals of the storm water pollution prevention plan. A schedule for conducting this training should be provided in the plan. Where appropriate, contractor personnel must also be trained in relevant aspects of storm water pollution prevention. Topics for employee training should include good housekeeping, materials management, and spill response procedures. EPA recommends that facilities conduct training annually at a minimum. However, more frequent training may be necessary at facilities with high turnover of employees or where employee participation is essential to the storm water pollution prevention plan.

(f) Recordkeeping and Internal Reporting Procedures—Permittees must describe procedures for developing and retaining records on the status and effectiveness of plan implementation. This includes the success and failure of BMPs implemented at the facility.

(g) Sediment and Erosion Control—Permittees must identify areas, due to topography, activities, soils, cover materials, or other factors that have a high potential for soil erosion. Measures to eliminate erosion must be identified in the plan.

(h) Management of Runoff—Permittees must provide an assessment of traditional storm water management practices that divert, infiltrate, reuse, or otherwise manage storm water so as to reduce the discharge of pollutants. Based on this assessment, practices to control runoff from these areas must be identified and implemented as required by the plan.

(3) Comprehensive Site Compliance Evaluation. The storm water pollution prevention plan must describe the scope and content of comprehensive site inspections that qualified personnel will conduct to: (1) Confirm the accuracy of the description of potential sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of this section. Comprehensive site compliance evaluations must be conducted once a year for transportation equipment, industrial or commercial machinery manufacturing facilities. The individual(s) who will conduct the evaluations must be identified in the plan and should be members of the pollution prevention team. Evaluation reports must be retained for at least 3 years after the date of the evaluation.

Based on the results of each evaluation, the description of potential pollution sources, and measures and controls, the plan must be revised as appropriate within 2 weeks after each evaluation. Changes in the measures and controls must be implemented on the site in a timely manner, never more than 12 weeks after completion of the evaluation.

6. Numeric Effluent Limitation

There are no additional numeric effluent limitations under this section other than those included in part V.B of the permit.

7. Monitoring and Reporting Requirements

a. Monitoring Requirements. The regulatory modifications at 40 CFR 122.44 (i)(2) established on April 2, 1992, grant permit writers the flexibility to reduce monitoring requirements in storm water discharge permits. EPA has determined that the potential for storm water discharges to contain pollutants above benchmark levels, because of the industrial activities and materials exposed to precipitation, does not support sampling at facilities that manufacture transportation equipment, industrial, or commercial machinery. Based on a consideration of the BMPs typically used at these facilities, and generally low pollutant values from the application data, EPA believes that the pollution prevention plan with visual examinations of storm water discharges will help to ensure storm water contamination is minimized. Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, zinc is above the bench mark concentrations for the industrial and commercial machinery and transportation equipment sector. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in this sector, EPA has determined that the higher concentrations of zinc are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require industrial and commercial machinery and transportation equipment facilities to conduct analytical monitoring for this parameter. Because permittees are not required to conduct sampling, they will be able to focus their resources on developing and implementing the pollution prevention plan.

Quarterly visual examinations of a storm water discharge from each outfall are required at transportation equipment, industrial, or commercial machinery manufacturing facilities. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, turbidity, floating solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examinations must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each designated period during daylight hours unless there is insufficient rainfall or snow-melt to runoff. EPA expects that, whenever practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Examinations shall be conducted in each of the following periods for the purposes of inspecting storm water quality associated with storm water runoff and snow melt: January through March; April through June; July through September; October through December. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff begins discharging. Reports of the visual include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual examination will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective

action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the examinations. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

As discussed above, EPA does not believe that chemical monitoring is necessary for facilities that manufacture transportation equipment, industrial, or commercial machinery. EPA believes that between quarterly visual examinations and site compliance evaluations potential sources of contaminants can be recognized, addressed, and then controlled with BMPs. In determining the monitoring requirements, EPA considered the nature of the industrial activities and significant materials exposed at these sites, and performed a review of data provided in Part 2 group applications.

AC. Storm Water Discharges Associated With Industrial Activity From Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods

1. Discharges Covered Under This Section

This sector covers storm water discharges associated with industrial activity from electronic and electrical equipment manufacturing facilities (SIC major group 36); measuring, analyzing, and controlling instruments, photographic, medical and optical goods, and watches and clocks manufacturing facilities (SIC major group 38); and computer and office equipment manufacturing facilities (SIC 357).

More specifically, the group of electronic and electrical equipment and components manufacturers includes manufacturers of electricity distribution equipment such as transformers and switch-gear, electrical industrial equipment such as motors and generators, household appliances, electric lighting and wiring equipment such as light bulbs and lighting fixtures, and audio and video equipment including phonograph records and audio tapes and disks. Also included are manufacturers of communication equipment including telephone and telegraph equipment, radio and television equipment, electronic components such as printed circuit boards and semiconductors and related devices, and miscellaneous electrical items such as batteries and electrical equipment for automobiles.

The group of analyzing, and controlling instruments, photographic, medical and optical goods, and watches and clocks manufacturers includes facilities which manufacture search, detection, navigation, or guidance systems such as radar and sonar equipment, measurement and control instruments and laboratory apparatus, surgical, medical and dental instruments and supplies, photographic equipment and supplies, and watches and clocks.

The computer and office equipment manufacturers group includes manufacturers of computers, computer storage devices, and peripheral equipment for computers such as printers and plotters. Manufacturers of miscellaneous office machines are also included in this group.

The SIC codes of the facilities covered by this section are in category (xi) of the definition of storm water discharges associated with industrial activity. Storm water discharges from facilities in this category are only regulated where precipitation and storm water runon come into contact with areas associated with industrial activities, and significant materials. Significant materials include, but are not limited to, raw materials, waste products, fuels, finished products, intermediate products, by-products, and other materials associated with industrial activities.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Pollutants Found in Storm Water Discharges

a. Sources of Pollutants. As noted in the preamble to the final storm water application regulations of November 16, 1990, most of the actual manufacturing and processing activity at these types of facilities normally occurs indoors (55 FR 48008).

Additional information concerning these manufacturing processes and the industrial sector itself can be found in the following documents: "Development Document for Effluent Limitations Guidelines and Standards for the Electrical and Electronics Components Point Source Category, Phase I," EPA 440/1–83/075; "Development Document for Effluent Limitations Guidelines and Standards for the Electrical and Electronic Components Point Source Category, Phase II," EPA 440/1–84/075; "Development Document for Existing Source Pretreatment Standards for the Electroplating Point Source Category," EPA 440/1–79/003; and "Development Document for Effluent Limitations Guidelines and Standards for the Metal Finishing Point Source Category," EPA 440/1–83/091.

The types of activities at these facilities where exposure to storm water may occur consist primarily of loading/unloading activities, and the storage and handling of raw materials, by-products, final products or waste products. A wide variety of materials are used at these facilities including metals, acids used for chemical etching, alkaline solutions, solvents, various oils and fuels and miscellaneous chemicals. Tanks or drums of these materials may be exposed to storm water during loading/un-loading operations, or through outdoor storage or handling at some facilities.

Liquid wastes which may be exposed at least temporarily include spent solvents and acids, miscellaneous chemicals and oily wastes. These wastes may be contaminated with a variety of heavy metals and chlorinated hydrocarbons. Used equipment, scrap metal and wire, soiled rags and sanding materials may also be exposed to storm water and constitute a potential source of pollutants. In addition, some facilities reported that dumpsters containing non-

hazardous wastes or manufacturing debris may be exposed to storm water.

Table AC–1 lists potential pollutant sources from activities that commonly take place at facilities which manufacture electronic and electrical equipment and components, photographic and optical goods.

TABLE AC–1.—COMMON POLLUTANT SOURCES

Activity	Pollutant source	Pollutants
Outdoor Material Loading/Unloading	Wooden pallets, spills/leaks from material handling equipment, raw materials, finished products, solvents.	TSS, oil and grease, organics.
Outdoor Material and Equipment Storage	Sulfuric acid, alkaline solutions, solvents miscellaneous chemicals, oily wastes, lead, silver, copper, zinc, spent solvents and acids, scrap metal and wire, oily rags.	Organics, oil and grease, acids, alkalinity, heavy metals.

b. Storm Water Sampling Results. Based on the similarities of the facilities included in this sector in terms of industrial activities and significant materials, EPA believes it is appropriate to discuss the potential pollutants at electronic and electric equipment and photographic and optical goods manufacturing facilities as a whole and not subdivide this sector. Therefore, Table AC–2 lists data for selected parameters from facilities in the electronic and electric equipment and photographic and optical goods manufacturing sector. This data includes the eight pollutants which all facilities were required to monitor for under Form 2F, as well as the pollutants that EPA has determined may merit further monitoring.

TABLE AC–2.—STATISTICS FOR SELECTED POLLUTANTS REPORTED BY ELECTRONIC AND ELECTRICAL EQUIPMENT AND PHOTOGRAPHIC AND OPTICAL GOODS MANUFACTURING FACILITIES SUBMITTING PART II SAMPLING DATA[i] (mg/L)

Pollutant or sample type	No. facilities		No. of samples		Mean		Minimum		Maximum		Median		95th percentile		99th percentile	
	Grab	Comp[ii]	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp	Grab	Comp
BOD_5	25	22	64	56	6.8	7.48	0.0	0.0	54.0	139.0	5.5	5.10	27.2	17.92	48.8	50.00
COD	25	22	65	56	69.3	36.3	0.0	0.0	460.0	220.0	40.0	24.0	173.3	122.2	304.8	155.6
Nitrate + Nitrite Nitrogen	25	21	64	57	0.83	0.66	0.00	0.0	6.97	2.64	0.51	0.51	2.83	1.56	4.99	2.40
Total Kjeldahl Nitrogen	25	22	64	56	1.45	1.34	0.00	0.0	10.20	13.6	1.00	1.01	4.28	4.22	7.41	7.08
Oil & Grease	25	N/A	69	N/A	0.6	N/A	0.0	N/A	9.0	N/A	0.0	N/A	3.5	N/A	8.3	N/A
pH	25	N/A	69	N/A	N/A	N/A	5.0	N/A	8.8	N/A	7.5	N/A	9.0	N/A	9.7	N/A
Total Phosphorus	24	21	64	57	1.50	1.02	0.00	0.0	20.10	44.4	0.13	0.16	1.56	1.72	8.35	4.40
Total Suspended Solids	24	22	63	56	85	67	0	0	810	716	29	14	424	282	1309	722
Aluminum, Total	4	1	4	1	0.68	0.60	0.00	0.00	0.40	1.00	1.40	0.70	15.37	1.34	29.78	1.75
Zinc, Total	16	13	51	46	0.162	0.152	0.000	0.000	1.101	1.200	0.00	0.00	0.560	0.500	1.060	0.940

[i] Applications that did not report the units of measurement for the reported values of pollutants were not included in these statistics. Values reported as non-detect or below detection limit were assumed to be zero.

[ii] Composite samples.

3. Options for Controlling Pollutants

In evaluating options for controlling pollutants in storm water discharges, EPA must achieve compliance with the technology-based standards of the Clean Water Act (Best Available Technology (BAT) and Best Conventional Technology). The Agency does not believe that it is appropriate to establish specific numeric effluent limitations or a specific design or performance standard in this section for storm water discharges associated with industrial activity from facilities which manufacture electronic and electrical equipment and components, and photographic and optical goods to meet BAT/BCT standards of the Clean Water Act. Instead, this section establishes requirements for the development and implementation of site-specific storm water pollution prevention plans consisting of a set of Best Management Practices (BMPs) that are sufficiently flexible to address different sources of pollutants at different sites.

Certain BMPs are implemented to prevent and/or minimize exposure of pollutants from industrial activities to storm water discharges. EPA believes the most effective BMPs for reducing pollutants in storm water discharges are exposure minimization practices. Exposure minimization practices lessen the potential for storm water to come into contact with pollutants. Good housekeeping practices ensure that facilities are sensitive to routine and nonroutine activities which may increase pollutants in storm water discharges. The BMPs which address good housekeeping and exposure minimization are easily implemented, inexpensive, and require little, if any, maintenance. BMP expenses may include construction of roofs for storage areas or other forms of permanent cover and the installation of berms/dikes. Other BMPs such as detention/retention ponds and filtering devices may be needed at these facilities because of the contaminant level in the storm water discharges. The types of BMPs implemented will depend on the type of discharge, types and concentrations of contaminants, and the volume of the flow.

The selection of the most effective BMPs will be based on site-specific considerations such as: facility size, climate, geographic location, geology/hydrology and the environmental setting of each facility, and volume and type of discharge generated. Each facility will be unique in that the source, type, and volume of contaminated storm water discharges will differ. In addition, the fate and transport of pollutants in these discharges will vary. EPA believes that the management practices discussed herein are well suited mechanisms to prevent or control the contamination of storm water discharges associated with manufacturers of electronic and electrical equipment and components, and photographic and optical goods.

Part 1 group application data indicated that the most widely implemented BMPs are spill prevention and response techniques (used by approximately 68 percent of the sampling facilities) and waste minimization practices (employed by approximately 54 percent of the sampling facilities). However, less than

30 percent of the sampling subgroup reported that they use covering; approximately 3 percent have roofs over their raw materials; and less than 3 percent store raw materials indoors.[103] Because BMPs described in part 1 data are generally limited, Table AC–3 is provided to identify BMPs associated with activities that routinely occur at manufacturers of electronic and electrical equipment and components, and photographic and optical goods.

TABLE AC–3.—GENERAL STORM WATER BMPS FOR MANUFACTURERS OF ELECTRONIC AND ELECTRICAL EQUIPMENT AND COMPONENTS, PHOTOGRAPHIC AND OPTICAL GOODS

Activity	Best management practices (BMPs)
Outdoor Unloading and Loading	Confine loading/unloading activities to a designated area. Consider performing loading/unloading activities indoors or in a covered area. Consider covering loading/unloading area with permanent cover (e.g., roofs) or temporary cover (e.g., tarps). Close storm drains during loading/unloading activities in surrounding areas. Avoid loading/unloading materials in the rain. Inspect the unloading/loading areas to detect problems before they occur. Inspect all containers prior to loading/unloading of any raw or spent materials. Consider berming, curbing, or diking loading/unloading areas. Dead-end sump where spilled materials could be directed. Drip pans under hoses. Use dry clean-up methods instead of washing the areas down. Train employees on proper loading/unloading techniques and spill prevention and response.
Outdoor Material Storage (including waste, and particulate emission management).	Confine storage of materials, parts, and equipment to designated areas. Consider secondary containment using curbing, berming, or diking all liquid storage areas. Train employees in spill prevention and response techniques. Train employees on proper waste control and disposal. Consider covering tanks. Ensure that all containers are closed (e.g., valves shut, lids sealed, caps closed). Wash and rinse containers indoors before storing them outdoors If outside or in covered areas, minimize runon of storm water by grading the land to divert flow away from containers. Leak detection and container integrity testing. Direct runoff to onsite retention pond. Inventory all raw and spent materials. Clean around vents and stacks. Place tubs around vents and stacks to collect particulate. Inspect air emission control systems (e.g., baghouses) regularly, and repair or replace when necessary. Store wastes in covered, leak proof containers (e.g., dumpsters, drums). Consider shipping all wastes to offsite landfills or treatment facilities. Ensure hazardous waste disposal practices are performed in accordance with Federal, State, and local requirements.

Sources: NPDES Storm Water Group Applications—Part 1. Received by EPA, March 18, 1991, through December 31,1992.
EPA, Office of Water. September 1992. "Storm Water Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices." EPA 832–R–92–006.

4. Special Conditions

There are no additional requirements under this section other than those stated in Part VI.B of this fact sheet.

5. Storm Water Pollution Prevention Plan Requirements

There are no additional requirements beyond those described in Part VI.C. of this fact sheet.

6. Numeric Effluent Limitations

No numeric effluent limitations are included for facilities in this sector, beyond those described in Part V.B. of today's permit.

7. Monitoring and Reporting Requirements

a. Monitoring Requirements. The regulatory modifications at 40 CFR 122.44 (i)(2) established on April 2, 1992, grant permit writers the flexibility to reduce monitoring requirements in storm water discharge permits. EPA has determined that the potential for storm water discharges to contain pollutants above benchmark levels, because of the industrial activities and materials exposed to precipitation, does not support sampling at facilities that manufacture electronic and electrical equipment and components, photographic, and optical goods. Under the Storm Water Regulations at 40 CFR 122.26(b)(14), EPA defined "storm water discharge associated with industrial activity". The focus of today's permit is to address the presence of pollutants that are associated with the industrial activities identified in this definition and that might be found in storm water discharges. Under the methodology for determining analytical monitoring requirements, described in section VI.E.1 of this fact sheet, aluminum and zinc are above the bench mark concentrations for the electronic, electric, photographic and optical goods sector. After a review of the nature of industrial activities and the significant materials exposed to storm water described by facilities in this sector, EPA has determined that the higher concentrations of aluminum and zinc

[103] These percentages were based on the information reported in the Part 1 group applications. However, some facilities which utilize these BMPs as part of their daily activities may not recognize these practices as BMPs and as a result did not report this information in their applications.

are not likely to be caused by the industrial activity, but may be primarily due to non-industrial activities on-site. Today's permit does not require electronic, electric, photographic and optical goods facilities to conduct analytical monitoring for these parameters.

Based on a consideration of the BMPs typically used at these facilities, and generally low pollutant values from the application data, EPA believes that the pollution prevention plan with visual examinations of storm water discharges will help to ensure storm water contamination is minimized. Because permittees are not required to conduct analytical monitoring, they will be able to focus their resources on developing and implementing the pollution prevention plan.

Quarterly visual examination of a storm water discharge from each outfall are required. The examination must be of a grab sample collected from each storm water outfall. The examination of storm water grab samples shall include any observations of color, odor, turbidity, floating solids, foam, oil sheen, or other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on these samples.

The examination must be made at least once in each designated period during daylight hours unless there is insufficient rainfall or snow-melt to runoff. Whenever practicable, the same individual should carry out the collection and examination of discharges throughout the life of the permit to ensure the greatest degree of consistency possible. Examinations shall be conducted in each of the following periods for the purposes of inspecting storm water quality associated with storm water runoff and snow melt: January through March; April through June; July through September; October through December. Grab samples shall be collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff begins discharging. Reports of the visual examination include: the examination date and time, examination personnel, visual quality of the storm water discharge, and probable sources of any observed storm water contamination. The visual examination reports must be maintained onsite with the pollution prevention plan.

EPA realizes that if a facility is inactive and unstaffed it may be difficult to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examination.

EPA believes that this quick and simple assessment will help the permittee to determine the effectiveness of his/her plan on a regular basis at very little cost. Although the visual examination cannot assess the chemical properties of the storm water discharged from the site, the examination will provide meaningful results upon which the facility may act quickly. The frequency of this visual inspection will also allow for timely adjustments to be made to the plan. If BMPs are performing ineffectively, corrective action must be implemented. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. The visual examination is intended to be performed by members of the pollution prevention team. This hands-on examination will enhance the staff's understanding of the storm water problems on that site and the effects of the management practices that are included in the plan.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

As discussed above, EPA does not believe that analytical monitoring is necessary for facilities that manufacture electronic and electrical equipment and components, photographic, and optical goods. EPA believes that between quarterly visual examinations and site compliance evaluations potential sources of contaminants can be recognized, addressed, and then controlled with BMPs. In determining the monitoring requirements, EPA considered the nature of the industrial activities and significant materials exposed at these sites, and performed a review of data provided in Part 2 group applications.

IX. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this proposed multi-sector general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The information collection requirements in today's permit have already been approved by the Office of Management and Budget (OMB) in previous submissions made for the NPDES permit program under the provisions of the Clean Water Act.

X. 401 Certification

Section 401 of the CWA provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters, shall be granted until the State in which the discharge originates certifies that the discharge will comply with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the CWA. The Section 401 certification process has been completed for all States, Indian lands, and Federal facilities covered by today's general permit. The following summary indicates where additional permit requirements have been added as a result of the certification process and also provides a more detailed discussion of additional requirements for the District of Columbia, Louisiana, New Mexico, Oklahoma, Texas, Arizona, and Washington State.

Region I

Connecticut: Indian lands only, no 401 conditions.
Maine: No 401 conditions.
Maine Indian lands: No 401 conditions.
Massachusetts: No 401 conditions.
Massachusetts: Indian lands only, no 401 conditions.
New Hampshire: no 401 conditions.
New Hampshire: Indian lands only, no 401 conditions.
Rhode Island: Indian lands only, no 401 conditions.
Vermont: Indian lands only, no 401 conditions.
Vermont: Federal facilities only, no 401 conditions.

Region II

Puerto Rico: no 401 conditions.
Puerto Rico: Federal facilities only, no 401 conditions.

Region III

District of Columbia: see the following and Part XII of the permit for 401 conditions.

The District of Columbia has added the following permit conditions in order to protect water quality in the District. A copy of all storm water pollution prevention plans required under the permit shall be submitted to the District of Columbia's Department of Consumer and Regulatory Affairs, Environmental

Regulation Administration, for review and approval.

District of Columbia: Federal facilities only, see the following and Part XII for 401 conditions.

The District of Columbia has added the following permit conditions for Federal facilities in order to protect the quality of waters in the District and surrounding areas including the Chesapeake Bay. Any Federal facility regulated by this permit shall include in its storm water management plan required by this permit the following additional items: current nitrogen and phosphorus loads, current fertilizer usage, current exterior pesticide usage, and current urea for deicing usage; volume of any storm water diverted to the sanitary sewer from roof leaders or other connections and the volume of any ground water diverted to the sanitary sewer; proposed reductions in nutrient and pesticides loads in accordance with the Chesapeake Bay Restoration goals; any Federal facility regulated by this permit, which manages significant quantities of animals or animal wastes, shall provide in the storm water management plan an accounting of these animal wastes, and nutrient control measures for avoiding, reducing, or eliminating runoff of these animal wastes; and any Federal facility regulated by this permit whose storm water discharges to a combined sewer shall study, or contribute to any joint study, the impact of its storm water discharge(s) on combined sewer overflows, and address potential solution(s) to avoid, reduce, or eliminate the combined sewer overflows caused by its storm water discharge(s). In addition, a copy of all storm water pollution prevention plans required under the permit shall be submitted to the District of Columbia's Department of Consumer and Regulatory Affairs, Environmental Regulation Administration, for review and approval.

Delaware: Federal facilities only, no 401 conditions.

Region IV

Florida: no 401 conditions.

Region VI

Louisiana: see the following and Part XII of the permit for 401 conditions.

In accordance with the Louisiana Coastal Zone Management Program (LRS 49:214), all facilities whose activities occur in, or have an effect on, the designated costal zone of Louisiana, must obtain an individual coastal zone consistency concurrence, permit, or waiver from the Coastal Management Division of the Louisiana Department of Natural Resources. These facilities are provided with an address to help in determining if they have responsibilities for obtaining clearance from the Louisiana Department of Natural Resources. These facilities cannot be eligible for coverage under this NPDES permit unless they have fulfilled their responsibilities under the Louisiana Coastal Zone Management Program. This is a condition of certification from the State of Louisiana (letter June 29, 1995).

As a condition for certification under Section 401 of the CWA, the State of Louisiana (letter dated February 1, 1995) required inclusion of the following limitations necessary to insure compliance with State water quality standards. These limitations are required under Louisiana Annotated Code 33:IX.708 (LAC 33:IX.708).

(1) General Limitations become effective on the effective date of the permit.

Parameter	Daily maximum (mg/l)
Total Organic Carbon (TOC)	50
Oil & Grease	15

(2) Oil & Gas Exploration and Production Facility requirements become effective on the effective date of the permit.

Parameter	Daily maximum (mg/l)
Chemical Oxygen Demand (COD)	100
Total Organic Carbon (TOC)	50
Oil & Grease	15

Chlorides: (a) Maximum chloride concentration of the discharge shall not exceed two times the ambient concentration of the receiving water in brackish marsh areas.

(b) Maximum chloride concentration of the discharge shall not exceed 500 mg/l in freshwater or intermediate marsh areas and upland areas.

Monitoring requirements for Total Organic Carbon (TOC) and Oil and Grease have been added to all facilities required to monitor annually or semi-annually. Facilities without monitoring requirements must insure the pollution prevention plan will insure compliance with these effluent limitations. The definitions of brackish marsh, freshwater marsh, intermediate marsh, upland area, and saline marsh at LAC 33:IX.708 have been included in Part X. of the permit.

Louisiana: Federal Indian Reservations only, no 401 conditions.

New Mexico: see the following and Part XII of the permit for 401 conditions.

As a condition for certification under Section 401 of the CWA, the State of New Mexico required inclusion of the following conditions necessary to insure compliance with State water quality standards (letter dated June 16, 1995). These conditions apply to permittees with facilities discharging into waters of the State of New Mexico. This testing requirement is in addition to any other monitoring required under the permit.

Results of the testing requirement is to be reported only to the State of New Mexico at the address given in the permit. A copy of the data shall be kept with the Pollution Prevention Plan.

New Mexico: Federal Indian Reservations only, no 401 conditions.

Oklahoma: see the following and Part XII of the permit for 401 conditions.

Under section 301 of the CWA and 40 CFR 122.44, EPA is required to include permit conditions necessary to insure compliance with more stringent conditions of State law. The proposed permit included requirements based on the 1988 Oklahoma Water Quality Standards, prohibiting new point source discharges to several classes of high quality waterbodies of the State. The final permit conditions reflect the requirements of Oklahoma Annotated Code Title 785, chapter 45 (OAC 785:45–5–25), effective June 25, 1992.

In order to comply with OAC 785:45–5–25, the permit will not authorize any new point source discharge of storm water associated with industrial activity to "new" point source discharges of storm water associated with industrial activity (those commencing after the June 25, 1992, effective date of the Oklahoma Water Quality Standards—OAC 785:45) to the following waters:

(i) Waterbodies designated as "outstanding Resource Waters" and/or "Scenic Rivers" in appendix A of the Oklahoma Water Quality Standards;

(ii) Oklahoma waterbodies located within the watersheds of waterbodies designated as "Scenic Rivers" in appendix A of the Oklahoma Water Quality Standards; and

(iii) Waterbodies located within the boundaries of Oklahoma Water Quality Standards appendix B areas which are specifically designated as "Outstanding Resource Waters" in appendix A of the Oklahoma Water Quality Standards.

In addition to this general permit exclusion on coverage, the Agency would like to emphasize the OAC 785:45–5–25 also prohibits the issuance of any NPDES discharge permit (other than for storm water runoff from temporary construction activity) for new point source discharges to ORWs or

Scenic Rivers, that commences after June 25, 1992.

Outstanding Resource Waters and Scenic Rivers are located in the following river basins identified in Oklahoma Water Quality Standards.

Basin 1—Middle Arkansas River: Barren Fork and certain listed tributaries; and the Upper Illinois River above Barren Fork confluence and certain listed tributaries.

Basin 2—Lower Arkansas River: Lee Creek and certain listed tributaries.

Basin 4—Lower Red River: Upper Mountain Fork River and certain listed tributaries.

For specific applicability, or a complete listing of affected waterbodies, permittees should refer to the Oklahoma Water Quality Standards, appendices A and B, or contact the Oklahoma Water Resources Board.

Oklahoma: Federal Indian Reservations only, no 401 conditions.

Texas: see the following and Part XII of the permit for 401 conditions.

As a condition for certification under section 401 of the CWA, the State of Texas required inclusion of the following conditions necessary to insure compliance with State water quality standards.

The following effluent limitations are required under the Texas Water Quality Standards (31 TAC 319.22 and 319.23). All pollution prevention plans developed pursuant to this permit must enable the discharger to comply with the limitations listed below.

All Discharges to Inland Waters

The maximum allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharges to inland waters are as follows:

Total metal	Monthly average	Daily composite	Single grab
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	5.0

All Discharges to Tidal Waters

The maximum allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharges to tidal waters are as follows:

Total metal	Monthly average	Daily composite	Single grab
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.1	0.2	0.3
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.1	0.2	0.3
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

The definitions of "inland" and "tidal" waters has been included in part XI.E of the Texas permit. Inland waters are those not defined as tidal waters. Tidal waters include those waters of the Gulf of Mexico within the jurisdiction of the State of Texas, bays and estuaries thereto, and those portions of the river systems which are subject to the ebb and flow of the tides, and to the intrusion of marine waters.

All facilities that have demonstrated significant lethality, which has not been controlled, shall continue to perform WET testing in accordance with the State specified requirements. The Texas Surface Water Quality Standards contain a whole effluent toxicity standard requiring discharges to exhibit greater than 50% survival of the appropriate test organisms in 100% effluent for a 24-hour period (i.e., 24-hr LC50 > 100%). As a condition for certification, the State required modification of the toxicity test protocol contained in the permit to conform to that specified to demonstrate compliance with the State standard. The results of the toxicity testing will be used to insure that facilities which have exhibited toxicity in the past will be required to continue monitoring for whole effluent toxicity and identify discharges that will require more stringent pollution prevention plans and/or individual or alternative general permit coverage.

Texas: Federal Indian Reservations only, no 401 conditions.

Region IX

Arizona: see the following and Part XII of the permit for 401 conditions.

Arizona: Federal facilities only, see the following and Part XII of the permit for 401 conditions.

In order to ensure compliance with the requirements of the State of Arizona, discharges authorized by this permit shall not cause or contribute to a violation of any applicable water quality

standard of the State of Arizona (Arizona Administrative Code, Title 18, Chapter 11). Notices of Intent, Notices of Termination, and for those facilities subject to monitoring and reporting requirements, Discharge Monitoring Report Form(s) and other required monitoring information shall be submitted to the State of Arizona Department of Environmental Quality at the following address: Storm Water Coordinator, Arizona Department of Environmental Quality, 3033 N. Central Avenue, Phoenix, Arizona 85012.

NOIs submitted to the State of Arizona shall include the well registration number if storm water associated with industrial activity is discharged to a dry well or an injection well.

SARA Section 313 (Community Right to Know) Facilities are subject to the following additional requirement: liquid storage areas for Section 313 water priority chemicals shall be operated to minimize discharges of Section 313 chemicals. Appropriate measures to minimize discharges of Section 313 chemicals shall include secondary containment provided for at least the entire contents of the largest tank plus sufficient freeboard to allow for the *25-year, 24-hour precipitation event*, a strong spill contingency and integrity testing plan, and/or other equivalent measures.

All facilities with any portion of the facility that is located at or below the Base Elevation shall delineate on the site map those portions of the facility that are located at or below the Base Elevation.

The following definitions are added to Part X of the permit:

"Significant Sources of Non-Storm Water"—includes, but is not limited to discharges which could cause or contribute to violations of water quality standards of the State of Arizona, and discharges which could include releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see GFR 302.4).

"Base Elevation"—elevation of a surface waterbody having a one percent chance of being equaled or exceeded during any given year.

Arizona: Federal Indian Reservations only (including those portions of the Navajo Reservation located outside Arizona), no 401 conditions.

California: Federal Indian Reservations only, no 401 conditions.

Nevada: Federal Indian Reservations only (including those portions of the Duck Valley, Fort McDermitt, and Goshute Reservations located outside Nevada), no 401 conditions.

Johnston Atoll: no 401 conditions.

Johnston Atoll: Federal facilities only, no 401 conditions.

Midway and Wake Island: no 401 conditions.

Midway and Wake Island: Federal facilities only, no 401 conditions.

Region X

Alaska: Federal Indian Reservations only, no 401 conditions.

Idaho: no 401 conditions.

Idaho: Federal Indian Reservations only (except the Duck Valley Reservation lands which are handled by Region IX), no 401 conditions.

Idaho: Federal facilities only, no 401 conditions.

Oregon: Federal Indian Reservations only, no 401 conditions.

Washington: Federal Indian Reservations only, no 401 conditions.

Washington: Federal facilities only, see the following and Part XII of the permit for 401 conditions.

In order to ensure compliance with the requirements of the State of Washington, discharges authorized by this permit shall not cause or contribute to a violation of any applicable water quality standard of the State of Washington, specifically Chapter 173–201A WAC Surface Water Quality Standards, Chapter 173–204 WAC Sediment Standards, and the National Toxics Rule for human health related to water quality standards.

XI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. Under 5 U.S.C. 605(b), no Regulatory Flexibility Analysis is required where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Today's permit will provide any small entity the opportunity to obtain storm water permit coverage as a result of the group application process. Group applications provided small entities a mechanism to reduce their permit application burden by grouping together with other industrial facilities and submitting a common permit application with reduced monitoring requirements and shared costs. The group application information submitted to EPA provided a basis for the development of storm water permit conditions tailored specifically for each industry. The permit requirements have been designed to minimize significant administrative and economic impacts on small entities and should not have a significant impact on industry in general. Moreover, the permit reduces a significant burden on regulated sources of applying for individual permits.

Accordingly, I hereby certify pursuant to 5 U.S.C. 605(b) that this permit will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

XII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), which was signed into law on March 22, 1995, EPA must prepare a written statement to accompany any rules with Federal mandates that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the Unfunded Mandates Act, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objective of such a rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the Unfunded Mandates Act a small government agency plan. The plan must provide for meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

In response to the requirements of the Unfunded Mandates Act, the Act generally excludes from the definition of a "Federal intergovernmental mandate" (in sections 202, 203, and 205) duties that arise from participation in a voluntary Federal program. A municipal discharger of storm water associated with industrial activity may voluntarily elect to seek coverage under today's multi-sector general permit rather than obtain an individual permit or coverage under a baseline general permit. Coverage under today's permit, therefore, is voluntary in that the permit does not automatically apply to any particular entity. Thus, it imposes no Federal intergovernmental mandate within the meaning of the Act.

Small government agency plans under section 203, on the other hand, are required when small governments may

be significantly or uniquely affected by regulatory requirements. "Regulatory requirements" arguably include the requirements of this permit should a municipality seek to be covered under the permit. EPA envisions that some municipalities may elect to seek coverage under this permit for certain storm water discharges, for example, from the following types of industrial activity: hazardous waste treatment, storage, and disposal; industrial landfills, land application sites and open dumps; scrap and waste material recycling; steam electric power generation; ground transportation (local and suburban transit, interurban highway passenger transportation, including railroads, petroleum bulk stations, and motor freight transportation); air transportation; domestic waste water treatment; and water transportation. Any such permit requirements, however, do not significantly affect small governments because they are subject to the same requirements as other entities whose duties result from today's rule. Permit requirements also do not uniquely affect small governments because compliance with the permit's conditions affects small governments in the same manner as other entities seeking coverage under the permit. Thus, any applicable requirements of section 203 have been satisfied.

The regulated community that may seek coverage under this general permit, including small governments, have been involved in the development of this permit and, therefore, have had notice of the requirements that they may incur under this permit. EPA has prepared permit Fact Sheets to accompanying this permit in order to inform and educate permit applicants about how to comply with the terms of the permit. EPA has already published instructional guidance: Developing Pollution Prevention Plans for Construction and (other) Industrial Activity (1992), NPDES Storm Water Sampling Guidance Document, 833/B–92–001 (July 1992), and Guidance for the Preparation of Discharge Monitoring Reports: Facilities required to Report Semi-annual Monitoring Results Under NPDES Storm Water General Permits, 833/B–93–002 (rev. April 1994). Therefore, EPA encourages any small governments that may seek coverage under this multi-sector general permit to refer to that instructional guidance, as well as contact EPA Regional storm water coordinators listed in the Permit Fact Sheet for any additional assistance such small governments may require.

Accordingly, I hereby certify pursuant to the provisions of the Regulatory Flexibility Act, that these permits will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 USC 1251 *et seq.*

Dated: August 29, 1995.

Marley Laing,

Acting Regional Administrator, Region I.

Accordingly, I hereby certify pursuant to the provisions of the Regulatory Flexibility Act, that these permits will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 USC 1251 *et seq.*

Dated: August 16, 1995.

Jeanne M. Fox,

Regional Administrator, Region II.

Accordingly, I hereby certify pursuant to the provisions of the Regulatory Flexibility Act, that these permits will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 USC 1251 *et seq.*

Dated: September 11, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

Accordingly, I hereby certify pursuant to the provisions of the Regulatory Flexibility Act, that these permits will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 USC 1251 *et seq.*

Dated: September 11, 1995.

Patrick M. Tobin,

Acting Regional Administrator, Region IV.

Accordingly, I hereby certify pursuant to the provisions of the Regulatory Flexibility Act, that these permits will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 USC 1251 *et seq.*

Dated: September 12, 1995.

William G. Laxton,

Acting Regional Administrator, Region VI.

Accordingly, I hereby certify pursuant to the provisions of the Regulatory Flexibility Act, that these permits will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 USC 1251 *et seq.*

Dated: August 24, 1995.

Alexis Strauss,

Acting Regional Administrator, Region 9.

Accordingly, I hereby certify pursuant to 5 U.S.C. 605(b) that this permit will not have a significant impact on a substantial number of small entities.

Dated: September 11, 1995.

Chuck Clarke,

Regional Administrator, Region 10.

Appendix A—Summary of Responses to Public Comments on the November 19, 1993, Proposed Draft Multi-Sector Storm Water General Permit

The following discussion is a summary of the major issues identified by EPA that were raised regarding the storm water multi-sector industrial general permit during the public comment period, along with EPA's response to each major issue. This summary aggregates comments by similarity of the issues and does not discuss each and every public comment that was received on the proposed permit. A comprehensive discussion of each comment that was raised is provided in a separate detailed response to comment document which is maintained by EPA as a part of the record for this permit issuance action. The first part of this appendix responds to the major issues raised by commenters during the comment period and the second part responds to key industry-specific issues.

Eligibility of Non-Group Members

As proposed, the multi-sector storm water general permit may provide discharge authorization for any industrial activity described in the coverage sections of the twenty-nine industrial sectors that have point source discharges of storm water to waters of the United States or to a municipal separate storm sewer system and which meet the general eligibility provisions of the permit. Coverage under the permit, as proposed, was allowed for owners and operators of these types of industrial activities regardless of whether or not they participated in a group application. Several commenters expressed concern that owners/operators of facilities which did not participate in the group application process will be eligible for coverage under the multi-sector general permit, and suggested that only those facilities that participated in the group process be allowed coverage under the permit.

EPA set forth the storm water permit application process (including group applications) in the storm water regulations published in November, 1990 (55 FR 47990). EPA's strategy, as stated in this notice, was to regulate storm water discharges from industrial activity by promulgating a baseline general permit for most industrial dischargers (Tier 1), and then to develop more specific industry and/or watershed general permits (Tiers 2 & 3). An integral part of the process to develop

the multi-sector storm water general permit, which is similar to a Tier 3 permit (industry-specific), was the assimilation of the industry-specific data gathered from the group applications. It was always EPA's intention to utilize this information in the development of permits to cover all applicable facilities, and to provide the resulting permit as a model to States for use in State permitting programs. In the preamble to these regulations on pages 48027 and 48028, EPA made it clear that the group application process would lead to either general permits for large groups of similar discharges or to individual permits for individual facilities. EPA did not commit to issue permits that were open only to group members. The concept of the general permit implies wide-ranging issuance to all eligible facilities.

Given the large number of group applications and the similarity between groups, EPA chose to develop and propose one general permit with twenty-nine different industry sectors covering all the industries represented in the group applications, rather than issue twenty-nine separate sector general permits, one by one, to each and every group. Likewise, EPA chose not to issue a separate and distinct "group" permit to each and every group because of the similarity between groups, in the industrial activities, significant materials stored exposed to storm water and the material management practices employed, as reported in the group application information. Given the similarity of the industrial activities represented in the group applications, twenty-nine sectors represented were determined by EPA as a reasonable grouping of the industries that participated in the group process. EPA further believes that the use of the twenty-nine sectors provides a fair and reasonable method for permitting each industry group that participated in the group application process.

To make the best use of the proposed multi-sector general permit, EPA chose not to limit coverage under this general permit to those facilities that only participated in the group process. The application information provided by the groups was extremely valuable in preparing the permit and has resulted in an accurate and more applicable industrial permit for the types of facilities represented in the applications. EPA is not precluded or restricted from utilizing information gathered from particular types of applications submitted to the Agency during the application process, and accordingly, coverage under today's general permit will remain available to all industrial facilities that meet the eligibility criteria of the permit, whether or not they participated in a group application.

Choice Between Baseline and Multi-Sector Permit

In the fact sheet for the proposed multi-sector general permit, EPA stated that group applicants could seek coverage under the baseline general permit rather than under this multi-sector general permit, but noted that certain deadlines for pollution prevention plan preparation and implementation had already expired for existing facilities under the baseline permit. Commenters supported the option that group applicants be allowed to chose coverage under either the multi-sector general permit or the baseline general permit once the multi-sector permit is issued in final. In addition, commenters requested that group applicants choosing to obtain coverage under the baseline general permit not be required to prepare a pollution prevention plan prior to submitting an NOI. These comments raise two issues: (1) Should group applicants be allowed to apply for coverage under the baseline general permit after the permit's October 1, 1992 deadline for existing facilities to apply for coverage; and (2) should the deadlines in the baseline general permit for pollution prevention plan preparation and implementation, sampling, etc. be waived for facilities filing for coverage after the October 1, 1992 deadline.

EPA will allow group applicants to submit an NOI for coverage under either today's multi-sector general permit or the baseline general permit. Although Part II.A.6 of the baseline general permit currently allows existing facilities to submit an NOI for coverage after October 1, 1992, the Agency reserves the right to limit coverage under the baseline general permit at a later date.

EPA will not, however, extend compliance deadlines in the baseline general permit for facilities that participated in the group application process. Group applicants had the opportunity to apply for the baseline general permit in a timely manner. It would be inappropriate for EPA to favor group applicants over facilities that complied with the baseline general permit by allowing them more time to come into compliance. Additionally, extending the baseline permit deadlines would require a modification of the baseline general permit, which is beyond the scope of today's final rule.

Consolidation of the Group Applications Into 29 Industry Sectors

Over 1,200 group applications were submitted to EPA pursuant to the group application option contained in 40 CFR 122.26(c)(2). As the group application option progressed, many of the groups dropped out leaving approximately 700 groups. Based on the similarity of many of the groups, and to maintain a manageable number of permits to be issued, EPA consolidated the approximately 700 groups into 29 industrial sectors, and developed BMP and monitoring requirements for each sector.

EPA received 50 comments regarding the consolidation of group applications. Thirty-eight comments objected to consolidation, while 12 comments expressed support. Another 38 comments suggested that the 29 industrial sectors should be divided into additional subsectors. Some commenters that objected to consolidation suggested that the use of SIC codes as one of the underpinnings for consolidation was inappropriate because SIC codes are based on economic activity, and are not meant to be indicative of an industry sector's affect on the quality of storm water runoff. Some commenters suggested that the consolidation process failed to take into account the climatic variations of different geographic regions across the country. Other commenters objected to the consolidation process on the basis that it represented a significant departure from the group application process as described in the preamble to the storm water permit application regulations published on November 16, 1990 (55 FR 48024). Some comments expressed disappointment that the group applications were not handled in a more "individualized" manner, and one comment suggested that the group application consolidation process violated the Administrative Procedure Act (APA).

Many of the commenters that expressed objections to the consolidation of the group applications offered alternative suggestions. Most recommended that additional sectors or subsectors be established, and it was also suggested that the general permit include a provision allowing industries the option of petitioning for the creation of subsectors during the term of the permit. Other suggestions included establishing minimum activity requirements that trigger monitoring requirements, or deleting the priority/nonpriority monitoring structure altogether.

For the final general permit, EPA has retained the 29 industrial sectors as listed in the proposed rule, with the addition of supplementary subsectors that establish specific monitoring requirements for different types of facilities within industrial sectors. In response to comments expressing concern over monitoring requirements that apply to all facilities within the priority sectors, the Agency re-evaluated the monitoring data submitted by facilities in the 29 industrial sectors, and modified the methodology for determining the types of facilities that are required to conduct storm water monitoring. Accordingly, the final general permit has been changed to focus monitoring requirements on industrial sub-sectors which, according to the submitted monitoring data, pose the greatest potential risk to storm water runoff quality. The final permit also provides the opportunity for facilities in sub-sectors that are subject to storm water monitoring to apply the alternative certification provisions (see section VI.E.3 of the Fact Sheet). The alternative certification provisions provide facilities an opportunity to reduce or avoid storm water monitoring requirements under certain circumstances and is discussed in more detail below.

As noted above, some commenters questioned whether the consolidation process was consistent with NPDES and APA regulations. EPA conducted a thorough review of the consolidation process for consistency with the NPDES regulations. Section 122.28(a)(2)(i) allows EPA to issue general permits for "storm water point sources;" this section does not in any way limit or qualify the types of sources subject to regulation. EPA also has broad regulatory discretion regarding geographic boundaries pursuant to section 122.28(a)(1). In developing the general permit, the Agency attempted to strike a balance between recognizing the variety of facilities that comprise the group applicants and developing a permitting process that could be administered without an undue expenditure of Agency resources. In summary, all actions taken by EPA, including the consolidation process, are also within the discretion accorded to the Agency under the Clean Water Act and NPDES regulations.

In regards to consistency with the APA, Section 553 of the APA requires that public notice and opportunity for public comment be provided for all rulemakings. EPA published the proposed NPDES General Permit for Storm Water Discharges From Industrial Activities in the Federal Register and provided a 90-day comment period on November 19, 1993 (58 FR 61146). Public hearings were also held in the EPA Regions. Furthermore, EPA invited comment on the 29 sector consolidation. These efforts by the Agency are consistent with the provisions of the APA.

As noted earlier, some commenters suggested that the use of SIC codes were inappropriate as a basis for consolidating industrial facilities into 29 industrial sectors. EPA notes that the nature of the industrial activities, as described in the group application information, in conjunction with SIC codes are an appropriate basis for sector consolidation. Although SIC codes are used to categorize industries based on economic activities, these codes are generally grouped together based on similar industrial activities. In addition, EPA was aware of the differences and similarities among the facilities included in a particular sector based upon the group application data that was submitted by the participants. Using this information in conjunction with the activity descriptors in the SIC codes, EPA was able to appropriately group similar industrial activities into the 29 sectors.

Credit for Group Members

EPA requested and received 75 comments that addressed the issue of whether EPA should grant some form of credit for facilities that participated in the group application process. Specifically, these commenters objected to EPA developing a permit that applies not only to group applicants but also to facilities that did not participate in the group application process. Thus, many of these commenters are seeking credit for the costs they incurred in the preparation of group permit applications.

A majority of the commenters expressed a desire for reduced monitoring as compensation for completing the sampling requirements and submitting the data for Part 1 and Part 2 of the application process. Specific suggestions included exemptions from one of the four samples taken during the first year, from the second year of monitoring, or from the first five years of monitoring. Other commenters suggested that EPA allow the monitoring requirements to be left to the discretion of the States and that civil fines be waived for inadvertent non-compliance of group members. In response to these comments, EPA wants to clarify that it is not allowing exemptions from monitoring requirements based on whether a facility participated in the group application process. EPA based the monitoring requirements in the permit on data submitted during the application process and does not intend to allow those facilities to conduct less frequent monitoring because of their participation in the group application process. Rather, facilities that participated in the group application process are actually in a position to benefit from the permit in the sense that this permit is tailored directly to their industrial sector and is based specifically on information provided in their group application. Facilities that did not participate in group applications will be required to comply with the permit conditions regardless of their site-specific circumstances.

Many commenters also expressed concern that the multi-sector permit would be available to non-group members. Although EPA regrets that the group application process did not produce the results that some participants hoped for, it would be a misuse of tax dollars to limit coverage under the multi-sector permit to group members and then develop another permit for non-group members. However, EPA would like to point out that facilities that participated in the group application process are in compliance with the permit application requirements under the storm water program, whereas facilities that did not participate in a group application and that are not covered under another permit are not in compliance and remain subject to enforcement action until covered by a permit.

Several other commenters suggested providing compensation for group members by waiving permit fees equal to the amount spent on data collection fees. In response, EPA is unable to devise an equitable manner for credit to be provided in this way.

Finally, some commenters advocated that group members be either exempted from the NOI submittal requirement or allowed to at least submit one NOI for the group. Other commenters suggested that the dates for submitting NOIs be extended for group members and that previously submitted NOIs be accepted. In today's general permit requirements, EPA requires each facility seeking coverage under the permit to submit their own NOI form. This requirement allows EPA to successfully track every facility covered by the permit. It will also increase the likelihood that facility operators will read the permit and makes enforcement actions easier to implement. EPA believes this is a justifiable requirement because the NOI form is a simple one-page form that requires little effort to complete.

In summary, EPA believes that credit has been provided to the group application members through the group application process. This included a reduced burden in submitting a permit application over the individual application option and reduced storm water sampling requirements for the application. With industry-specific information upon which to base the proposed multi-sector storm water permit, group applicants will be issued a more applicable and tailored storm water discharge permit which better takes into account the characteristics of each industry sector.

Storm Water Runon

The owner or operator of a regulated industrial facility with point source discharges of storm water is responsible for the storm water discharges that leave its property and enter waters of the U.S. or a municipal separate storm sewer system. There are instances, however, whereby the storm water that is discharged at least partially consists of storm water flowing onto the facility from a nearby facility or property (referred to here as "runon").

Commenters have requested clarification of the permit language on the issue of runon. One commenter asked for a provision to be added to the permit that would relieve facilities from any responsibility for pollutants present in storm water runon which is eventually discharged from their property. The commenter also indicated that runon from adjacent sites cannot always be separated from onsite discharges.

Today's general permit does not change the provisions related to runon. Facilities that discharge point sources of storm water associated with industrial activity, even if it includes offsite runon, remain responsible for the permitting of those discharges. Such facilities which seek coverage under today's permit must address storm water runon in their storm water pollution prevention plan (storm water pollution prevention plan). If a facility cannot effectively address the runon problem in their storm water pollution prevention plan, then the facility should contact their NPDES permitting authority for assistance on how to deal with the runon problem. In addition, the facility may chose to monitor the runon to document that the source of pollutants is offsite. By doing so, a facility with a runon problem may be better able to show that the pollutant source is offsite and that their pollution prevention plan is adequately addressing all onsite sources. Offsite facilities which are the source of the contaminated runon could be designated by the permitting authority as a co-permittee with the adjacent facility and jointly develop a storm water pollution prevention plan, and perform any monitoring which may be required to address the situation. They may also be designated as a separate permittee by the permitting authority.

Acceptance of Group Application in Lieu of an NOI

A number of commenters suggest EPA exempt members of approved group applications from the Notice of Intent (NOI) submittal requirements. The commenters indicate these facilities should automatically be covered under today's permit because they have already satisfied the NPDES storm water application requirements.

EPA cannot exempt members of the approved group application from the NOI submittal requirements. Federal regulations under 40 CFR 122.28(b)(2) require an NOI for all NPDES general permits for the discharge of storm water associated with industrial activity. EPA cannot assume that all members of the approved group applications wish to be covered by today's permit, or that they satisfy the eligibility provisions of the permit.

Encourage NPDES States To Accept Group Applications

Several commenters requested that EPA require or encourage NPDES-authorized States to accept the group applications and/or issue permits based on the multi-sector model.

EPA has, and continues, to encourage States to make use of the multi-sector general permit for permitting industrial activities. EPA has encouraged States by sending them the original permit and fact sheet and by supporting them with additional information necessary to issue the permit within their States. EPA has also given NPDES States databases of the group application members which allows each State to identify group applicants within their States. EPA will make available to all NPDES authorized States a copy of the final multi-sector general permit. In addition, EPA will make available group application information to any NPDES States that request it. However, EPA cannot require NPDES-authorized States to accept group applications and to utilize the multi-sector permit as a model for developing a State permit. This would be inconsistent with previously stated EPA position. The response to comments for the final storm water regulations (55 CFR 48028) specifically noted that NPDES-authorized States were free to adopt the group application process, "* * * but is not required to." EPA also recommended that "(b)efore submitting a group application, facilities should ascertain from the State permitting authority whether that State intends to issue permits based on a group application * * *." The Agency believes general permits offer an efficient means of providing discharge permit coverage to a large number of facilities and that the multi-sector general permit represents an appropriate permit for the industries that were members of group applications. However, once the NPDES program is approved for a State, basic permitting decisions lie with the State.

Co-Located Industrial Activities

A number of commenters expressed concern over the conditions in the permit which require facilities with multiple "co-located" industrial activities to comply with all industry sector requirements that are applicable to one or more of the industrial activities on their site. Commenters argue that given the large number of industry sectors and the complexity of the eligibility requirements, it will be difficult for facilities to determine which industry sector requirements apply. Commenters expressed concern that a permittee could unknowingly violate the permit conditions by failing to recognize that a portion of his/her facility is subject to another industry sector requirements. Commenters also stated that the cumulative burden of the monitoring and pollution prevention plan requirements for facilities with a number of industrial activities would be excessive.

In response to these concerns, EPA has modified those sections of today's permit addressing co-located activities to reduce confusion that could arise from the co-located conditions as proposed. However, under today's permit facilities with multiple industrial activities are still required to prepare and implement a pollution prevention plan which addresses the requirements of all the applicable industry sector requirements. These facilities are also required to comply with the industry sector monitoring requirements on an outfall by outfall basis. The intent of today's permit remains the same, which was to require pollution prevention plan measures and storm water monitoring which specifically addresses the pollutant sources at the permitted industry facility. Operators of facilities with multiple industrial activities will need to carefully and completely review the permit and fact sheet to determine all necessary applicable terms and

conditions. EPA believes the sector descriptions are clear. Application of the sector descriptions to co-located activities is within the scope of responsibilities of a permittee under the NPDES program and does not place an undue burden on the facility operator. For clarification, with co-located industrial activities, still only one storm water pollution prevention plan is required for the facility. Monitoring requirements for each outfall will not be duplicative but will be complementary. If the same pollutant is required to be monitored in two different sectors for industrial activities found on the site, if the industrial activities drain to the same storm water outfall, only one sample and analytical measurement for that pollutant is necessary.

Notice of Intent Submission Requirements

A number of commenters expressed concern over the requirement in the proposed permit for submission of a Notice of Intent (NOI) when there is a change in the operator of the facility. The proposed permit required the new operator to submit an NOI 2 days prior to the transfer of operations. The commenters opposed this time frame for submittal of the NOI, stating that the purchaser of an industrial activity will not be able to complete the NOI or prepare a Storm Water Pollution Prevention Plan in advance of the property transfer. The commenters suggested different time frames for submittal of an NOI which ranged from 30 to 120 days after the transfer of operations.

Today's permit retains the requirement that new operators notify EPA at least 2 days in advance of a transfer of operator responsibility for an industrial activity. EPA believes that the simple information required for completion of the NOI can easily be obtained by the purchaser in advance of the actual property transfer. Operators of recently purchased facilities which discharge storm water associated with industrial activity without an NPDES permit would be in violation of the Clean Water Act.

In addition to submitting the NOI two days prior, new operators which assume ownership of an industrial facility without a break in operations must continue to implement the Storm Water Pollution Prevention Plan prepared by the previous operator, otherwise failure to do so would constitute a violation of the NPDES storm water general permit conditions. These facilities may subsequently modify the storm water pollution prevention plan to accommodate any changes in operation which they choose to make, provided the storm water pollution prevention plan still meets all requirements of the permit.

Submission of a Copy of the Notice of Intent (NOI) to the Operator of the Municipal Separate Storm Sewer

Several commenters opposed the requirement for facilities which discharge to Municipal Separate Storm Sewers (MS4) to submit a copy of the NOI to the operator of the MS4. The commenters argue that submitting the notice places an additional paperwork burden upon the facilities. Others argue that the submission is unnecessary because all industrial activities discharging to MS4's were required to notify their municipalities prior to May 15, 1991. Finally one commenter stated that there would be no benefit from facilities covered under this permit notifying municipalities since facilities covered under other general permits or individual permits would not be required to notify the MS4 operator.

Today's permit retains the requirement for facilities which discharge to a MS4 to send a copy of the NOI to the operator of the MS4. This requirement is retained as a provision to assist municipalities comply with the anticipated requirements of their NPDES permits. This will be a key piece of information for municipalities to identify industrial discharges to their MS4s as required under 40 CFR 122.26. Through submittal of the NOI to the MS4, municipalities can keep an up-to-date inventory of storm water discharges associated with industrial activity that discharge to the system. From this inventory, municipalities may (as a part of their storm water management plan activities) review industrial pollution prevention plans of the industries which discharge to their system. EPA does not believe this requirement presents a significant paperwork burden for the facility since the facility is simply required to make an additional copy of the one page NOI form, which they send to EPA, and send that copy to the operator of the MS4. This requirement is a provision of EPA's baseline general permit and is also a requirement of most individual permits issued to industrial dischargers where the permitting authority determines it is necessary. Making use of information from a previous notification done in 1991 would not allow the municipality to keep their industrial inventory up-to-date.

Prohibition of Non-Storm Water Discharges

A number of the comments received discussed the prohibition of non-storm water discharges contained in the permit. The multi-sector permit authorizes some non-storm water discharges. These discharges include those from firefighting activities; firehydrant flushings; irrigation drainage; lawn watering; routine external building washdown without detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents that are combined with storm water discharges associated with industrial activity. The non-storm water discharges must be identified within the storm water pollution prevention plan to be authorized under this permit. All other non-storm water discharges including vehicle and equipment wash water, boiler blow down, and steam condensate are excluded from coverage under today's permit and must be covered under a separate NPDES permit. Today's permit requires that a facility certify that the presence of non-storm water discharges has been tested for at its outfalls and that an inventory of the locations of the outfalls with non-storm water discharges has been conducted.

EPA received several comments requesting that additional non-storm water discharges be authorized by the multi-sector permit. These discharges included those from vehicle washing that did not use detergents, air compressor condensate, discharges from drinking fountains and clean water discharges from holding tanks. EPA has reviewed the requests for additional allowable non-storm water discharges and determined that air compressor condensate and drinking fountain water are not expected to contain pollutants and will be added to the list of allowable non-storm water discharges covered by today's permit. Other non-storm water discharges such as vehicle wash waters, regardless of detergent usage, and holding tank discharges are not covered by today's permit since there is a significant potential for these types of discharges to be contaminated. Such non-storm water discharges should be authorized under another NPDES permit.

Several commenters also requested modification to the requirement that

building and pavement wash water discharge only be allowed under the permit where there has been no past spill or leaks or where all spilled material has been removed. The commenters indicated that it was not reasonable to require all residue to be removed. Commenters requested a more reasonable cleanup standard. EPA has not modified this provision in today's permit. The non-storm water discharges covered by today's permit are eligible because EPA believes these discharges will not contain contamination. To the contrary, there is a significant possibility that pavement or building wash water from an area in which a pollutant residue remains will contain pollutants which would then be discharged. Such discharges, if they are not completely cleaned up, are required to be permitted, but under a separate NPDES permit. If such discharges are numerous at a facility, the operator of the facility may find it advantageous to apply for an individual NPDES permit which could cover these types of discharges in addition to the storm water and process discharges that may be present. Under any permitting scenario, however, the preferential environmental result is to remove the residual contamination and prevent the contamination of storm water runoff.

Releases in Excess of Reportable Quantities

Under the proposed permit permittees were required to report releases of hazardous substances as required under 40 CFR 117 and 40 CFR 302 that exceed a reportable quantity (RQ). If the spill exceeds the RQ the facility must report the spill to the National Response Center, modify the storm water pollution prevention plan, and notify EPA in writing of the nature of the spill. The permit further required facilities to minimize the discharges of these substances in storm water through the implementation of applicable best management practices. When releases do occur, the facilities are required to submit a written report which outlines the steps to be taken to reduce the chance of further spills in the future. Commenters were concerned about how to interpret the reporting requirements for RQ releases. For instance, at an airport, if individual airlines release ethylene glycol at levels below the RQ, then is the combined discharge from several airlines considered reportable? Commenters also wanted clarification on what constituted a significant spill or leak. Is the spillage of two cups of oil significant if it causes a visible sheen?

Today's permit requires each individual permittee to report spills equal to or exceeding the RQ levels specified at 40 CFR 110, 117, and 302. If an airport authority is the sole permittee, then the sum total of all spills at the airport would be assessed against the RQ. If the airport authority is a co-permittee with other permittees at the airport, such as numerous different airlines, the assessed amount would be the summation of all spills by each co-permittee. If separate, distinct individual permittees exist at the airport, then the amount spilled by each separate permittee is the assessed amount for RQ determination. These facilities must follow the necessary procedures for reporting spills or leaks equal to or exceeding the RQ level. Where a sole permittee is identified, this permittee would report. Where co-permittees are present, the co-permittees should identify in their pollution prevention plan for the airport who the responsible party is for reporting purposes, otherwise all co-permittees are responsible. In relation to the RQ for oil, quantity does not necessarily matter. The oil RQ is a visible sheen or slick and if such is produced by a spill of oil then the RQ has been exceeded.

Non-Storm Water Discharge Certification

Many commenters felt that the storm water pollution prevention plans should not include an inventory of non-storm water discharges or the NPDES permit numbers that cover those discharges. Today's permit does not require the permittee to list the NPDES permit numbers for the separately permitted non-storm water discharges, however, the permit does require that facilities identify the potential sources of the non-storm water discharges. The list of potential sources will assist the operator in efforts to eliminate or redirect non-storm water discharges.

Deadlines for Preparation, Implementation and Revisions to the Storm Water Pollution Prevention Plan

The proposed multi-sector permit currently requires that all facilities certify that they have prepared and implemented a storm water pollution prevention plan in accordance with part IV of the permit. For existing facilities, the storm water pollution prevention plan must be prepared and implemented within 270 days after permit issuance. New facilities must have prepared and implemented the storm water pollution prevention plan prior to submitting the NOI. Where construction is necessary to implement the plan, the facility should complete construction as soon as possible, but has up to a maximum of 3 years to comply with the plan. There is also a provision for an extension of the deadline for implementation of the storm water pollution prevention plan where the Director may establish a later date for compliance with the plan where a facility can show good cause.

Oil and gas facilities which have discharges of reportable quantities of oil or a hazardous substance will be required to develop and implement a plan on or before 60 days after first knowledge of a release. EPA requested comment as to whether the multi-sector permit should require all permittees to submit certification that the storm water pollution prevention plan has been prepared and implemented in accordance with the terms and conditions of the permit. The proposed permit also would have required any needed revisions of the plan to be developed within 2 weeks of the Comprehensive Site Compliance Evaluation and implemented no more than 12 weeks after the inspection.

In general, commenters indicated that they needed more time to develop and implement the storm water pollution prevention plan properly because of the complexity and resources involved. These commenters were commenting on both new and existing facility requirements. Five commenters did not like the deadlines for development and implementation of a storm water pollution prevention plan in the multi-sector permit because these deadlines were inconsistent with EPA's baseline storm water general permit. They argued that the multi-sector permit should allow the same time frame of 6 months from the effective date of the permit to develop the plan with 360 days for implementation. Four commenters argued that new facilities should not have to certify that their storm water pollution prevention plan is complete at the time of NOI submittal. They felt that new facilities should be afforded the same compliance deadline as the existing facilities which are given 270 days. One commenter suggested that a more reasonable cut-off time be established for new facilities when the storm water pollution prevention plan would be required to be developed and implemented prior to the NOI. Another commenter argued that new facilities should be given 6 months after submittal of the NOI to develop and implement the plan to allow for the evaluation of plan needs while the facility is in operation. One commenter felt that a minimum of 90 days would be needed for smaller facilities for internal development and training under the storm water pollution prevention plan. Another commenter

argued that in order to develop an appropriate and effective storm water pollution prevention plan it is necessary to evaluate the facility while in operation. This commenter therefore suggested that new facilities be allowed six months to develop a storm water pollution prevention plan. One commenter stated that large waste water treatment plants need more than 270 days just to prepare the storm water pollution prevention plan and to get additional funding for the non-storm water discharge certification provisions. In addition, some commenters did not agree that the plan should be implemented within the same time frame as it is developed. They suggested a year for implementation. Another commenter would prefer a deadline of 14 months to develop and implement a storm water pollution prevention plan, arguing that companies that have many facilities, such as the freight industry, may be required to develop and implement upwards of 500 plans in the 270 days. Scrap processing and recycling facilities want longer than the 270 days (such as three years) for the implementation of treatment BMPs exceeding $10,000 in cost, otherwise they argued that financial hardships would result. One commenter argued that facilities originally part of the group application process, who will now be submitting an NOI to be covered under the baseline general permit, should be given the same 180 to 270 days to develop and implement the storm water pollution prevention plan as those who will submit NOI's for coverage under the multi-sector permit.

A few commenters commented upon the 3-year time frame to implement BMPs requiring construction. One commenter suggested 5 years to construct storm water control measures with 50% construction at 2 years, 75% at 3 years and 100% at 5 years. One commenter also commented that 3 years was not enough time to construct controls under the storm water pollution prevention plan for federal facilities. At federal facilities funding for construction is awarded in a 5-year process. Two organizations commented on the time frames for modifications to the storm water pollution prevention plan after the site compliance evaluation. They argue that 12 weeks for implementation of necessary changes is not practical because they may require engineering design and construction. One commenter suggested that a period of 1 year be allowed for changes requiring facility modification.

EPA does not agree with the numerous comments on the deadlines for development and implementation of a pollution prevention plan, and has decided to maintain the deadlines as proposed in the multi-sector permit for the development, implementation, and modification of the storm water pollution prevention plan. EPA believes that 9 months is adequate time for facilities to develop and implement storm water BMPs that do not require construction and for those that do, up to 3 years is sufficient. EPA has issued guidance on developing storm water pollution prevention plans for industrial activities, and this guidance is readily available. In addition, the multi-sector permit fact sheet provides an extensive amount of information on the types of industry-specific BMPs that can be implemented by facilities in each of the 29 sectors. Those facilities that cannot meet those deadlines may apply, on a case-by-case basis for an extension of the timeframes as specified in the permit.

Most new facilities should have no problem developing and implementing their storm water pollution prevention plans prior to the submittal of their NOI and the start of operations. Subsequent site compliance evaluations may show that modifications are needed based on operations at the new facility, however, they will have the additional 12 weeks after the inspection to implement the needed changes.

Certification of the Storm Water Pollution Prevention Plan

The proposed multi-sector permit requests comment on requiring all permittees to submit a certification to EPA upon completion and implementation of the storm water pollution prevention plan. Most commenters were against submitting a certification statement confirming the completion of the storm water pollution prevention plan. Comments indicated that the certification statement would put an unnecessary burden on the facilities. Commenters felt that when the NOI is signed and submitted, the permittee is certifying that he/she will comply with all applicable permit conditions including the development and implementation of a storm water pollution prevention plan. However, some commenters felt that submitting the certification would help facilities effectively plan the development of their storm water pollution prevention plans.

Today's permit does not require all facilities under the multi-sector permit to provide a certification upon implementation of their storm water pollution prevention plans. EPA agrees with the commenters that by signing the NOI form, permittees are agreeing to comply with all permit conditions within the specified deadlines of the permit. This includes developing and implementing a storm water pollution prevention plan within 270 days after permit finalization for pre-existing facilities or prior to operation for new facilities. EPA reserves the right to request a copy of the completed storm water pollution prevention plan at any time and failure to comply would be a permit violation. EPA also notes that under CWA Section 402(j), permit applications and permits must be available to the public. Because the storm water pollution prevention plan constitutes a portion of the permit, such plans must be publicly available. Accordingly, EPA will contact permittees as necessary to make such plans available.

Identification of Outfall and Sampling Locations, and Types of Discharges Contained in Outfalls

The pollution prevention plan requirements under the proposed multi-sector permit includes the development of a site map. This site map must denote certain site characteristics, such as the pattern of storm water drainage, structural features that control pollutants in runoff, and places where significant materials are exposed to storm water. EPA requested comment as to whether the final permit should require that the site map indicate the outfall locations, sampling locations, and types of discharges contained in the outfalls.

A slim majority of the comments received indicate that the additional requirements should not be included in the final permit. Commenters believed the requirements, if adopted, could confuse users by cluttering the map, and would be a duplication of information that is required under other sections of the pollution prevention plan. In addition, several commenters stated that sampling locations may vary, depending upon factors such as the amount of rain, safety considerations, and activities occurring at the facility. Commenters argued that to continually revise the map to include these changes would place an unnecessary burden on the facility.

Commenters in favor of the additional requirements stated that the information will assist users that did not participate in the development of the site map. In addition, the map would be a good tool for training new employees. Commenters note that these requirements should be limited to outfalls covered under this permit, not others, such as those discharging to POTWs or those covered under separate

NPDES permits. Also, it may be more efficient to document some of the information on a key to the map or in a separate attachment. This would make the map easier to read and avoid the problem of clutter.

Today's permit requires permittees to indicate, on the site map, the location of all outfalls covered under the final permit. In addition, the facility must prepare an inventory of the types of discharges contained in each outfall (e.g., storm water and air conditioner condensate). This inventory, however, may be kept as an attachment to the site map. Basic information on the discharge points that are to be covered under the permit should be readily accessible. EPA believes that denoting the location of the outfalls is important to the permittee and will assist in determining potential pollutant sources for each outfall. EPA believes the benefit of doing so outweighs the problems pointed out by the commenters.

Inventory of Significant Materials and Significant Spills and Leaks Within the Past Three Years

The proposed multi-sector permit required that facilities prepare an inventory of significant materials that are or have been exposed to storm water discharges within the past three years. Facilities were also required to provide a list of significant spills and/or leaks within the past three years. Both these items must be included within the storm water pollution prevention plan with a description of the BMPs used to prevent exposure of such leaks or spills to storm water discharges.

Commenters stated that such inventories would be burdensome to compile. Commenters felt that facilities would not have this information readily available, especially recently acquired facilities. In lieu of preparing the inventories to cover activities within the past three years, commenters wanted inventories to be prepared from the effective date of the permit.

Residuals from the leaks and spills may be a major source of contamination of storm water discharges. EPA believes that it is important for facilities to develop inventories of significant materials and past significant spills and leaks. These inventories will help facilities identify the areas where best management practices should be implemented and is an integral part of storm water pollution prevention. EPA believes that this information is available to facilities and can be readily compiled from existing records. EPA does not believe this requirement represents an undue burden upon the permittee. In addition, this requirement is commonly included within other issued NPDES storm water permits, therefore EPA is retaining this requirement in the final multi-sector storm water general permit.

Employee Training Requirements

The proposed multi-sector permit requested comment on whether a minimum training frequency of once per year should be specified for all industry sectors. Employee training is an effective tool in prevention pollution of storm water discharges. Employees that have been taught the importance of the pollution prevention plan measures and controls are more likely to thoroughly implement and continually maintain them. The training program is required to be described within the facility's pollution prevention plan and is applicable to all employees (including contractor personnel where relevant). Typical topics to be addressed include good housekeeping, materials management, and spill response procedures.

Many commenters supported the annual training requirement offered by EPA and one commenter felt that the training requirements were too high. However, most comments indicated that the training requirements should be more flexible. For instance, training should be based on the industrial activity and the complexity of the storm water pollution prevention plan which will affect how often an employee training program is necessary. This flexibility will ensure that training occurs only when necessary and may lessen the burden on those facilities that find training to be too burdensome.

To provide additional flexibility as the commenters suggested, today's permit includes training requirements that are sector-specific depending upon the needs assessed for each industry sector. Sectors with industrial activities that have a significant potential for storm water contamination to occur for reasons such as; operator error, lack of understanding of the operation of storm water controls, the need for frequent routine maintenance, the frequent changing of processes conducted outdoors, etc., will warrant some frequency of training. These types of facilities must conduct employee training at appropriate intervals which they determine necessary based upon these factors and others such as the number of employees, the complexity and types of pollution prevention measures and the rate of employee turnover.

Guidance for Storm Water Pollution Prevention Plan Development

Several commenters requested guidance on how to develop storm water pollution prevention plans and how to educate employees on storm water pollution prevention plan implementation. This information has already been prepared by EPA and is readily available. EPA published a guidance manual for storm water pollution prevention plan development and implementation in September 1992. The guidance manual, Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices (EPA 832/R–92–006), was written to provide guidance for those facilities covered under the baseline general permit. However, the storm water pollution prevention plan requirements are similar and the manual is applicable for those who will be covered under the multi-sector permit. EPA also prepared a companion guidance document for construction activities, entitled Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices (EPA 832/R–92–005). This document is also available from EPA.

Monitoring Requirements

Benchmarks

The proposed multi-sector permit describes "pollutant benchmark values" (See Table 7, 58 FR 61169) which were used by EPA to determine the analytical monitoring conditions in the proposed permit. The benchmarks are also to be used by permittees who are required to conduct monitoring for comparison to determine if they qualify for the low concentration waiver. The standards are based primarily upon EPA Recommended Ambient Water Quality Criteria (Gold Book) values for toxic pollutants, and certain others, and NURP median concentrations for most conventional pollutants.

The benchmark values were used in two ways in the proposed permit. First, they were used as a standard of comparison against the median industry concentration for each pollutant that was sampled during the application process. If a median pollutant concentration in the sampling data for an industry sector was above the benchmark values it was considered a pollutant of concern for the industry sector. Under the proposed permit, when five or more median pollutant concentrations were higher than the benchmark values, the industry sector was required to perform analytical

monitoring under the terms of the proposed permit.

Second, the benchmark values were used as a standard of comparison for an individual permitted facility that wishes to qualify for the low concentration waiver to be relieved from monitoring in the fourth year of the permit (monitoring cut-off values). The permittee would conduct storm water sampling as required under the permit in the second year of coverage. From this data, the permittee would average the pollutant concentrations for each monitored pollutant and would then compare these averages against the monitoring cut-off values. If the average concentrations were below the cut-off values then the permittee would be relieved from monitoring in the fourth year of the permit on the conclusion that the pollution prevention plan was effective in controlling the discharge of the storm water pollutants of concern.

Although most commenters favored the concept of an incentive approach to monitoring, if monitoring had to be required, a significant number of commenters indicated that the benchmark concentrations/monitoring cut-off values were inappropriate. Reasons given for this comment include the following: (1) The use of water quality criteria is an inappropriate comparison for discharge data, because it does not consider dilution of the discharge in the receiving water; (2) benchmarks should be determined based upon local conditions not by using national standards; (3) EPA should not use NURP median concentrations as benchmark values. These values have no bearing to industrial storm water discharge or to water quality; (4) several of the benchmark values are below the method detection limit (e.g., arsenic) and would therefore be impossible to achieve; (5) other benchmark values are far too stringent, (some are even lower than drinking water standards) and runoff from industrial areas would not meet these benchmarks; (6) many of the commenters were concerned that the benchmark concentrations are, or will become storm water effluent limitations.

Under today's final permit, EPA continues to use benchmark concentrations as a means for selecting priority industries for analytical monitoring and as a means for determining if the facility is eligible for a sampling waiver in the fourth year of permit coverage. However, because of the comments received, the basis for development of the benchmarks/monitoring cut-off values has been re-evaluated by EPA.

The revised benchmarks/monitoring cut-off values and the basis for these are presented in the Fact Sheet to today's permit. Changes made to the benchmarks/monitoring cut-off values to address the concerns expressed in the comments are summarized below.

Conventional Pollutants: NURP median data for conventionals have been replaced as benchmark values and monitoring cut-off values for all conventional pollutants except TSS and nitrate plus nitrite nitrogen. The replacement conventional benchmarks are based upon pollutant concentration levels required under the secondary treatment regulations, North Carolina water quality standards and existing storm water effluent guidelines. In most cases, the final benchmarks for conventionals/monitoring cut-off values are at higher concentration levels than the benchmarks in the proposed permit.

Non-Conventional-Inorganic: Acute water quality criteria based upon human consumption (where acute values do not exist) will be retained as benchmarks and monitoring cut-off concentrations for parameters if the values are not lower than method detection limits. Where the values are lower than the method detection limits, the benchmark has been replaced by the minimum level. A minimum level for such a pollutant is the method detection level multiplied by a factor of 3.18. The factor of 3.18 has been determined by EPA to be the most appropriate level above the detection level (for most pollutants) at which reliable quantitation of the pollutant can be analytically accomplished.

Non-Conventional-Organic: Water quality criteria values based on human consumption values are now used as benchmarks. Acute water quality criteria for these pollutants are generally too high to be used as benchmark values.

EPA believes that the revised pollutant benchmarks represent a reasonable standard of comparison for industrial storm water discharges for the two principle purposes described above. All levels are above the method detection limits for the respective parameters and provide a reasonable target for controlling storm water contamination by pollution prevention plans.

EPA emphasizes that the pollutant benchmark concentrations are not storm water effluent limitations, they are simply standards of comparison or targets by which EPA determined if discharges from an industry sector or facility merit monitoring under the terms of the permit. Facilities are not required to meet these concentrations as effluent limitations in their discharges. The benchmarks are designed to assist facility operators in determining if their pollution prevention plans are reducing pollutant concentrations to below levels of concern. Given the purpose of these benchmarks/monitoring cut-off values, EPA does not believe that dilution or background concentrations of each pollutant need to be considered. The monitoring benchmark cutoff values are not effluent limitations. For this same reason, local conditions do not need to be considered.

Facilities wishing to obtain a permit which considers their local conditions have the option of not seeking coverage under this multi-sector general permit but may submit an individual permit application to their applicable EPA permitting authority.

Minimum Required Data Needed for Pollutants To Be Analyzed for Monitoring

When determining industry-specific monitoring requirements for facilities under the multi-sector permit, EPA performed statistical analyses on pollutant data submitted in the group applications. For pollutants of potential concern, (those with at least three observations (outfall samples) within an industrial sector), EPA compared the median values to the benchmark values to determine a potential pollutant for monitoring.

Commenters felt that three observations of a parameter per sector was not a fair minimum representation for the facilities within a sector since the pollutants may all be showing up at three outfalls at only one facility and this facility may not be representative of an entire industry sector. Commenters argued that a parameter should only be considered as a pollutant of concern if it is observed at some significant percentage of the sites sampled within the sector. Other commenters stated that the minimum should be based upon at least three separate facilities instead of outfalls. An entire sector should not be required to monitor based upon the information received from one facility that sampled three outfalls.

EPA agrees with the commenters and the methodology for developing monitoring requirements for today's permit has been revised. In the methodology used for the monitoring provisions for the final permit, EPA only considers a pollutant to be of concern where 3 separate facilities submitted data within a subsector or sector.

Under the methodology for the proposed permit it was possible for an entire sector to be required to monitor

based upon the data submitted by one facility with three outfalls and EPA agrees that one facility should not be considered necessarily representative of an entire industry sector for the purposes of determining the need to monitor. If three facilities which discharge a pollutant, however, the pollutant is not unique to a particular facility and is indicative of the industrial activities conducted in the industry sector or subsector. EPA conducted the monitoring evaluation assuming both a normal distribution and a lognormal distribution of the data set. The results were not significantly different.

Quality of the Part II Database

The Part 2 group application database includes Part 2 monitoring data from participants which participated in the group application process. Statistical analyses (e.g., mean, median, 95th percentile, and 99th percentile values) of this data was conducted for each parameter within every industrial sector. These analyses were conducted assuming both a normal distribution to the data and a lognormal distribution. The results of the analyses were used in the methodology to determine the proposed monitoring requirements.

Several commenters stated that the database, which only included monitoring data received prior to January 1, 1993, was incomplete and/or contained errors. The commenters stated that the database should be expanded to include all the group application data, as well as further reviewed to eliminate duplications and inaccuracies. Other commenters requested that the methods used to develop the statistical evaluation of the data be revamped (e.g., use a lognormal distribution of the data). In addition, a few commenters stated that the analysis did not properly consider facilities which did not submit data for a pollutant listed in Part C of the Form 2F since these facilities had no reason to believe the pollutant was present in their discharge. Therefore, the commenters argued, EPA's analysis should assume that the discharge concentration of these pollutants is zero.

EPA has again reviewed and double-checked the monitoring data analyzed for the development of the permit. EPA concludes that the monitoring data analyzed is representative of the industries evaluated. EPA analyzed data which was submitted months after the application deadline for the purpose of identifying pollutants of concern and developing monitoring requirements. In addition, on a sector-by-sector basis, EPA reviewed data that was submitted late to determine if the additional data was consistent with what had already been evaluated. Given this extra level of effort to analyze and consider all submitted data, even though some data was not loaded into the database that was publicly distributed, EPA believes that the analyses performed on the group application sampling data, and the results that were derived, are valid and reasonable.

EPA also believes that the concerns raised by commenters about the number of duplications and errors contained in the database which was distributed, is no longer warranted in that as errors were noted, EPA further screened and corrected the database. In response to the recommendation from commenters that a zero concentration value should be entered into the database every time a facility did not sample for a given pollutant because they did not believe it was present on their site, EPA does not agree. Obviously, assuming zero concentrations for these facilities would significantly reduce the mean and median concentrations. This would be imposing a major, unsupported assumption into the database. It cannot be assumed that facilities which did not submit data for a part B or C pollutant have a discharge concentration of zero for that pollutant. Facilities which did not sample for a pollutant because they did not believe it was present, may not have adequately considered all potential sources of these pollutants. In addition, facilities that did sample were supposed to be representative of the entire group in which they were located. This was a process determined by the group applicants themselves, with approval from EPA. Therefore, where facilities did sample and report for a given pollutant, and other facilities in the group did not, it could be assumed that the pollutant really was present at all other facilities. To be more accurate and unbiased in the analyses of the data, EPA chose not to assume either a zero value or an extrapolated value for pollutants that were not analyzed for by some facilities within a sector. EPA analyzed only actual data points that were submitted. Where a pollutant was tested for, and the result was below detection levels, EPA assumed these data points to be zero values for the pollutant.

Establishing Priority Monitoring Sectors

The multi-sector permit requires analytical monitoring only for 'priority' sectors. A sector was considered a 'priority' if, based on the Part II data for the sector, five or more pollutants sampled for had median concentrations above benchmark values. If the sector had median values greater than benchmark values for four or less parameters, only visual examinations would need to be conducted.

Several commenters stated that the methodology employed for establishing priority sectors was arbitrary and/or flawed (i.e there is no basis for choosing five as the number of parameters needed to be above benchmark levels to trigger sampling). Others indicated that the approach did not consider the relative impacts (e.g., toxicity) of the pollutants on receiving waters. Commenters also indicated that it was inappropriate to group together a wide range of industrial activity discharge data into one industry sector, and to use that data as a basis for comparison.

In response to these comments, EPA has revised the methodology for selecting which industries must conduct analytical monitoring. EPA reviewed the grouping of industries into sectors for statistical analysis. It was determined that in some cases a sector contained a grouping of industrial activities which may have different storm water discharges. In these cases EPA modified its analysis to statistically summarize the industry by subsectors. Division into industry sub-sectors was prepared in most cases based upon the three digit SIC codes provided by the group participants in their group application information. The results of the subsector analysis of the data were then used for comparison to the revised benchmarks (discussed above).

Today's permit also eliminates the five pollutant threshold for determining if a sector merited monitoring. For each subsector (or sector where it was not possible to further divide the sector into subsectors) EPA compared, on a pollutant by pollutant basis, the median concentration to the benchmark. Where the median concentration for a pollutant is higher than the benchmark, where there are likely sources of the pollutant associated with the industrial activity, and where the concentrations are high enough so as not to be due to "background" or natural sources, the subsector (or sector) is required to conduct analytical monitoring for the listed pollutant. This methodology is pollutant-specific and addresses the concerns that some commenters had that some industries within a sector may be inherently clean compared to other industries in the same sector. In addition, this approach is more environmentally protective in that the number of different pollutants in a discharge does not necessarily increase the risk posed by that discharge. It is possible that a receiving water may be significantly impacted by a discharge

containing a high concentration of just one pollutant and therefore monitoring should be conducted to determine if controls are adequately reducing the levels of the discharge.

Selection of Additional High Priority Sectors Based Upon Factors Other Than Sampling Data

When determining industry-specific monitoring requirements for facilities under the multi-sector permit, EPA identified three additional industry sectors based upon a review of the degree of exposure, types of materials exposed, and the need for more sampling data than what was submitted in the group application. The industry sectors identified are hazardous waste treatment, storage and disposal facilities (TSDFs), auto salvage yards and airports.

Commenters felt that selection of these industries as priority sectors was arbitrary, particularly for those sectors where it was determined that the monitoring data submitted was not adequate (automobile salvage yards and airports). Under today's permit EPA is continuing to require monitoring for these three sectors which were selected based upon criteria other than the methodology employing the part 2 sampling data. It is EPA's best professional judgement that these industries merit further monitoring based on anticipated presence of significant pollutants. The data submitted was insufficient to disprove the EPA conclusion that these types of facilities have a significant potential to discharge contaminants. EPA believes the data submitted for these industries is insufficient and not representative of the discharges from the facilities and therefore additional data should be collected.

Should the Multi-Sector Permit Require Facilities That Must Monitor for Total Recoverable Metals To Also Monitor for pH?

Not all sectors of the proposed multi-sector permit require facilities that must monitor for total recoverable metals to also monitor for pH. Because it is known that the toxicity of metals is affected in part by pH, EPA requested comment as to whether to add pH to the list of parameters to be monitored in those sectors where total recoverable metals are also being chemically monitored.

Several commenters agreed with the addition of pH as a parameter that should be measured for all sectors where monitoring of a total recoverable metal is required. These commenters argued that it is not an expensive burden, requires little effort, and the data is needed to evaluate the impact of metals in the storm water discharge. One commenter stated that monitoring of pH would be appropriate since the pH of local rainfalls varies by the particular region where a facility is located. One commenter supported the use of this parameter only if toxicity changes in the metals could be demonstrated to occur at pH values presented in the group data. Several commenters stated that rather than the pH of the discharge being monitored that it is the pH of the receiving stream that is of critical concern. One commenter supported the monitoring of this parameter only if the EPA granted facilities the option of monitoring for other total recoverable metals or dissolved metals.

One commenter stated that monitoring of pH would only be necessary if pH in the receiving water is a problem and should be considered only after the total loading of an entire watershed is established showing that fluctuations in pH are not the result of pollutants from industrial activities, but are from sources such as acid rain. One commenter stated that they have performed studies which show that pH is not a concern for the food and kindred products sector.

The majority of the commenters were opposed to the blanket requirement to monitor pH whenever total recoverable metals were required to be monitored. The opposition was mainly due to the inherent problems associated with acid rain and in evaluating and linking the cause of toxicity to industrial activities and the associated storm water discharge. Several commenters strongly opposed a requirement to monitor pH believing it to be unnecessary. Many of those opposed felt the analysis should be left to the discretion of the facility in the development of their storm water pollution prevention plan.

EPA will not require facilities to also monitor pH for every sector that must monitor total recoverable metals. Rather, the decision will be left to the discretion of the facility or will be specifically required within a sector for other reasons. Monitoring the pH of the storm water may not provide an indication of the effectiveness of the storm water pollution prevention plan because of the influences of factors other than the facility's industrial activities on the pH of the discharge (i.e., acid rain). Allowing the facility to evaluate the effectiveness of the measurement of pH for each particular facility will alleviate the misinterpretation of the data that may result. This may be particularly true for extreme pH values beyond those normally anticipated with acid rain.

Support or Opposition to Baseline Monitoring Requirements

In the proposed multi-sector permit, EPA modified some sector monitoring requirements based upon the group application data submitted. EPA requested comment for each industrial sector on the changed requirements from the 1992 baseline general permit that were proposed in the multi-sector permit. Fifteen of the sixteen commenters that commented on this issue were opposed to the monitoring requirements in the baseline permit. Several supported the deviations from the baseline permit which they claimed was based only on theoretical and potential discharges, whereas the monitoring requirements for the multi-sector permit were based on actual storm water discharge data from the industries. A couple of commenters stated that the use of the baseline monitoring requirements would defeat the purpose of the money and effort spent on collecting data for the application process.

One commenter, while still opposed to any monitoring requirements for the fiberglass and aluminum boat builders, supported the monitoring parameters in section IX.R.8 of the multi-sector permit in lieu of the baseline permit. Two commenters supported the change from the baseline permit requirements, which triggered monitoring at 50,000 flight operations per year, for airports. One commenter in the rubber and miscellaneous sector was concerned that *any* analytical monitoring was being associated with the sector because they do not have any outside storage.

Another commenter supported the changes in the requirements for the Glass, Clay, Cement, Concrete, and Gypsum product sector where only the ready-mix concrete plants must monitor because visual monitoring is more appropriate for determining whether BMPs are effective. One commenter from the steam electric group felt that the monitoring requirements from the baseline permit were more appropriate, particularly the annual monitoring, compared to the monthly visual observations and quarterly chemical monitoring in the multi-sector permit. The commenter stated that pollutants in their storm water discharge are essentially unvarying and that the original list of pollutants in the baseline general permit provided a more appropriate set of indicators of storm water contamination from their site.

EPA has reviewed both sets of monitoring requirements and as a result

will not incorporate the monitoring conditions from the baseline general permit into the final multi-sector permit. EPA believes that the monitoring requirements in the baseline permit are designed primarily to characterize pollutants in storm water discharges from those facilities seeking coverage under the permit. For the most part, this characterization effort has already been accomplished through the group application sampling. Whereas, the multi-sector general permit monitoring strategy has been designed primarily to provide information on the effectiveness of the storm water pollution prevention plan.

Visual Examinations of Storm Water Discharges

The multi-sector permit includes requirements for facilities to perform visual examinations of storm water discharges. "High risk" industry sectors were required to perform visual examinations of storm water samples on a monthly basis. "Low risk" sectors were required to perform the exam on a quarterly basis.

EPA received a large number of comments on the proposed visual examination requirements, both in support and in opposition. The majority of comments were in reference to the frequency of visual examinations. Others commented that the costs/requirements of the visual exams were too burdensome, and some facilities wanted no visual exams at all. Other comments included requests for: clarification of language requiring visual examinations; more specific criteria for when to conduct a visual examination; provision of a checklist for performing visual exams; and criteria for examining snow melt runoff.

Commenters who opposed the requirements did so because; visual exams are too burdensome for facilities with many outfalls; conducting visual exams is too time consuming; the logistics associated with performing visual exams are too difficult for the average worker to understand; the results of the exam will be of no value; and the visual exam requirements are too frequent and will encourage fraudulent submissions.

Some commenters were opposed to the visual monitoring requirements stating that it is not as effective as examining the equipment installed to accomplish pollution prevention. They suggested that if the requirement is retained, the idea of comparing the visual observation to a baseline be addressed because the use of the same site personnel over time is not viable due to continuous rotation of personnel. Other commenters were opposed to the burden that would result from the support documentation needed to meet the 72 hour dry weather and 0.1 inch rainfall requirements. These commenters felt this would require constant monitoring of the weather, recordkeeping, and the development of monthly visual observation reports which would be costly for small companies.

Numerous commenters supported the use of visual examinations to monitor the effectiveness of the pollution prevention plan and the implemented BMPs. These commenters stated that visual examinations can be an effective tool and would allow easy detection of suspended and settled solids, oil sheen and other obvious indicators. Some commenters that favored visual monitoring suggested this be done in lieu of any chemical analyses.

EPA believes that the visual examinations will provide permittees a quick and inexpensive assessment of the effectiveness of the facility's pollution prevention plan on a more frequent basis, but at a more cursory level, than just analytical chemical monitoring. The examinations are intended to be conducted by the company's pollution prevention team, or someone who will be familiar with storm water management at the facility. The team may be able to identify sources of contamination in the storm water discharge given their knowledge of the industrial activities conducted at the facility and the materials stored exposed to storm water. From these observations, the team may be able to identify additional BMPs that can be implemented to control the contaminant sources, or ways to improve the efficiency of existing BMPs. EPA will retain the requirement to perform a visual examination of the storm water discharge in today's multi-sector permit. EPA believes the visual examination of the discharge will become an important part of an active facility's overall effort to control storm water contamination. EPA maintains that the visual examination of the storm water discharges will allow a quick and simple assessment of the quality of the storm water runoff which can then be used to help assess the effectiveness of a facility's pollution prevention plan at very little cost. The results of the visual examination should be used in conjunction with the results from the comprehensive site compliance evaluation, analytical monitoring, if required, and sector-specific inspections to determine if appropriate BMP's have been implemented.

Today's permit and fact sheet include more detailed language which elaborates on the description of the visual exam requirements. Additionally, the frequency for visual examination for all applicable industry sectors will be quarterly under today's permit. This responds to a majority of the commenters by reducing the burden placed upon facilities, and allows a more reasonable amount of time for a representative storm event to occur. The information from visual monitoring is intended to be used by the facility as a quick and simple means of determining any obvious changes in the quality of storm water runoff from the site when the discharges are occurring. EPA understands that there is a measure of uncertainty and subjectivity in performing visual exams, but believes this will not adversely affect the purpose of the examinations. In summary, visual examinations of the storm water discharges provide a low cost means for the facility operator to routinely assess storm water problems at a facility and will provide an indication of major problems with the effectiveness of the storm water pollution prevention plan.

Alternative Monitoring Provisions

In the proposed permit, EPA requested comment on alternative monitoring and reporting requirements in lieu of the proposed requirements. Most of the commenters were opposed to the alternative monitoring requirements. Some commenters believed the alternative monitoring requirements would focus too much attention on sampling and not enough on pollution prevention plans. Some commenters did not think the whole effluent toxicity testing, where it was proposed in the alternative requirements in certain sectors, would be appropriate for storm water evaluations also stating that they are too expensive and complicated. Some commenters supported the proposed alternative monitoring requirements stating that the alternative requirements should be kept as an option assuming there is appropriate data demonstrating the need for this monitoring.

In response to the comments concerning the alternative monitoring provisions discussed in the fact sheet of the proposed permit, EPA is not incorporating these monitoring requirements into the final permit. Rather, as explained above, EPA has reconsidered the entire monitoring strategy as proposed in the permit and has developed a new monitoring strategy based upon a sub-sector analyses of the data to be responsive to

the majority of concerns regarding storm water monitoring in the proposed permit.

Signatory Requirements

The multi-sector permit requires that all Notices of Intent (NOI), Notices of Termination (NOT), storm water pollution prevention plans, reports, certifications or other information, either to be submitted, or to be maintained by the permittee, be signed in accordance with the requirements in 40 CFR Part 122.22.

One commenter stated that the NOI certification is significantly different than the wording in the September 9, 1992 baseline general permit. Another commenter stated that the signatory requirements should be similar to those required by the national pretreatment program to maintain consistency and to avoid confusion. One commenter stated that the signatory requirements were appropriate for the NOI and the NOT, however, were not appropriate for the storm water pollution prevention plan and other such documents because they are excessive when compared to similar programs. This commenter suggested that an appropriate company representative such as those outlined in VII.G.2 would be more appropriate to provide a signature because they are more familiar with the regulations and the operations of the industrial facility. One commenter requested that a member of the storm water pollution prevention plan team be allowed to sign the site compliance report.

EPA will maintain the signature requirements as proposed in the multi-sector permit which requires that all NOIs, NOTs, storm water pollution prevention plans, reports, certifications or information either to be submitted to the Director, or that are required to be retained by the permit, be signed by a responsible corporate officer. The certification and signature requirements in the multi-sector permit are the same requirements as those used in other areas of the NPDES program and the pretreatment program and have not been changed from the September 1992 baseline general permit. Furthermore, the requirements allow authorized representatives to be appointed for signature authority. Therefore, if a facility feels it is more appropriate for a member of the storm water pollution prevention plan team to sign the documentation, that option is available under the permit.

Miscellaneous Inspection Requirements

EPA received comments on inspection requirements, recordkeeping requirements, and reporting requirements from 24 commenters. Most of these stated that the proposed requirements are too burdensome and suggested ways to scale down this burden, with suggestions ranging from decreasing inspection schedules to requiring less paperwork. A few commenters opposed the frequency of inspections required in several of the sectors of the proposed permit. Specifically, two commenters stated that monthly inspections of designated equipment and areas of the facility are unnecessary and inappropriate.

EPA has established visual and other inspection requirements tailored to each industrial sector based on conditions specific to each sector. Where appropriate, today's permit contains daily, weekly, monthly, or less frequent inspections of various important facility areas and activities. EPA believes the frequencies in the permit are necessary to ensure that storm water runoff from these key areas does not cause significant discharges of pollutants.

Retention of Records

Seven commenters stated that the requirement that records be retained for 6 or more years (three years after the permit expires) is excessive. One commenter suggested that a more discrete time period be specified for records retention, so as to eliminate the undesirable result of inadvertently requiring facilities to retain records indefinitely if a permit is continually extended. Five commenters suggested that a three-year retention period is adequate and consistent with other NPDES permits. Another commenter suggested that records be retained for a maximum of one year after the inspection or monitoring occurs. Two other commenters stated that the documentation and recordkeeping requirements are too elaborate and could require excessive resources from small businesses. Four other commenters stated that the reporting requirements are unnecessary and unduly burdensome.

EPA has retained all recordkeeping requirements from the proposed permit. However, in response to commenters' concerns about inconsistent timeframes, the Agency has standardized the retention period for all records to be the minimum period allowed under 40 CFR 122.41(j). Thus, today's permit requires permittees to retain all records (those from inspections as well as monitoring data) for a minimum of three years from the date of the inspection, sampling, or measurement. In addition, to help reduce the amount of reports permittees may be required to generate during a permit term, EPA has reduced some of the inspection and examination requirements for some industrial sectors. For example, the requirement for visual examinations of discharges has been changed to quarterly for all sectors (except air transportation) and pollutant-by-pollutant no exposure certifications are now allowed. EPA believes these changes, and others in today's permit, will decrease the recordkeeping burden on many facilities, including small businesses.

Special Requirements for Facilities Subject to Reporting Requirements Under EPCRA 313

EPA received a number of comments that addressed the proposed special requirements for facilities subject to the EPCRA Section 313 reporting requirements. Specifically, 52 of these comments addressed the proposed requirement for a certification of the storm water pollution prevention plan for an EPCRA 313 facility by a Professional Engineer (PE), of which 50 opposed such certification and two favored it. Thirty-one of the commenters opposed to the certification indicated that other categories of professionals with knowledge of pollution prevention, including hydrologists and certified hazardous materials managers, would be more appropriate than a PE to review the plan. Most indicated that someone very familiar with the facility would be the most appropriate person to make the certification. Other commenters noted that the facility manager is legally responsible and should be responsible for certifying or selecting the certifying party. A few commenters stated that the PE provision would be unnecessarily costly, particularly for small facilities. One commenter added that the frequency of certification should be reduced to once every five years.

In response to these commenters, EPA has removed the requirement for PE certification from the permit as well as the requirement to certify the plan every three years. The permit now requires facilities subject to the EPCRA Section 313 requirements to conduct the same storm water pollution prevention plan certification procedures as facilities not subject to EPCRA Section 313. Thus, facilities subject to EPCRA Section 313 requirements need only certify their pollution prevention plan when it is developed or when revisions or changes are made and does not include a PE certification.

EPA also received numerous comments that opposed the extension of special requirements for EPCRA Section 313 facilities to all facilities with above-ground storage tanks and/or exposed handling of liquid chemicals. About half

of these commenters stated that there was no basis for extending these specific Best Management Practices (BMP) to facilities that already have BMPs under the EPCRA program. The other half indicated that these special provisions were redundant with requirements in other programs, such as RCRA. Two commenters also stated that such an extension of requirements associated with EPCRA to all facilities covered by the multi-sector permit would be inappropriate regulatory duplication. Based on these comments and further review, EPA is not extending the Section 313 requirements to additional facilities.

In addition to these specific comments, EPA received 25 comments opposed to the special storm water pollution prevention plan requirements for EPCRA Section 313 facilities. These commenters objected that there are a variety of burdensome aspects of the prescribed practices. Sixteen of these commenters suggested that the special requirements are redundant with those imposed by other programs and/or are inappropriate given the data presented in the notice on the presence of pollutants in storm water from EPCRA Section 313 facilities and non-313 facilities. They indicated that the data show no distinguishable differences between storm water pollution from these two categories. Other commenters stated that the costs of complying with the special provisions for Section 313 facilities are excessive. With the exception of the PE certification, EPA is not reducing the special pollution prevention plan requirements for facilities subject to EPCRA Section 313 requirements. The Agency is leaving them in place because of the nature of the industrial activities and chemicals handled at such facilities. These controls are necessary to ensure that storm water runoff does not become contaminated with EPCRA Section 313 water priority chemicals. The use of these controls represents an established level of technology-based controls that are already being implemented at many of these types of facilities and EPA believes this level of technological control should be maintained.

On January 12, 1994, EPA proposed to add 313 new chemicals to the EPCRA Section 313 list of chemicals found at 40 CFR 372.65. On November 30, 1994, EPA published a final notice in the **Federal Register** adding 286 chemicals to the list. A Section 313 water priority chemical is defined as a chemical or chemical categories which are: 1) are listed at 40 CFR 372.65 pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986); 2) are present at or above threshold levels at a facility subject to EPCRA Section 313 reporting requirements; and 3) that meet at least one of the following criteria: (i) Are listed in Appendix D of 40 CFR 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances); (ii) are listed as a hazardous substance pursuant to section 311(b)(2)(A) of the CWA at 40 CFR 116.4; or (iii) are pollutants for which EPA has published acute or chronic water quality criteria.

In response to this rulemaking, EPA analyzed the list of Section 313 water priority chemicals in the proposed multi-sector general permit by comparing these 286 new chemicals against Tables II, III, and V of Appendix D of 40 CFR 122, the list of hazardous substances listed at 40 CFR 116.4, and the list of pollutants for which EPA has published acute or chronic water quality criteria. Based on this analysis, EPA is adding 44 of the 286 new chemicals or chemical categories to the list of Section 313 water priority chemicals which is an appendix to today's permit. In developing the original definition of Section 313 water priority chemicals, EPA included a reference to the EPCRA 313 chemical listing and noted that future additions to the list could occur and that these would automatically expand the storm water EPCRA 313 water priority chemical list used in the industrial storm water general permits. In addition, the proposed regulation to expand the EPCRA 313 list notified the public that with an expansion of the list, other programs, such as the storm water permitting program that incorporated the EPCRA 313 listing, would also be similarly affected.

By adding these new chemicals to the water priority chemical list, potentially more facilities will be required to implement the EPCRA 313 special pollution prevention plan requirements. However, EPA believes that the additional water priority chemicals will not have a significant impact on the cost of compliance by any individual facility. Facilities already implementing these provisions may have additional chemicals to address in their plans beyond those they already consider, but EPA believes many of the BMPs and pollution prevention measures already being implemented will be applicable to the new chemicals. EPA re-examined the estimated upper range of cost of compliance by a facility required to implement the special EPCRA water priority chemical pollution prevention plan requirements, and has determined that the added chemicals will not cause this range to be exceeded.

Cost of Compliance

EPA received several comments concerning cost estimates for the permit requirements, many of which offer similar viewpoints. EPA provided estimates of the cost of compliance in the fact sheet to the proposed permit. These costs covered a range of costs, from low to high, that may be necessary to implement a storm water pollution prevention plan at the wide range of types of facilities that will be covered under this permit. Twenty-eight commenters stated that the estimated cost for industry to comply with the multi-sector permit is too high. In response to these comments, EPA re-examined its cost estimates to ensure that they were accurate and to ensure that the range, as estimated, adequately covered all anticipated circumstances. From this re-evaluation, EPA believes that the costs of compliance, which includes preparing and implementing a pollution prevention plan during the term of the permit, are accurate and adequately cover the range of anticipated costs for facilities that will be covered under this permit. In addition, EPA believes the cost of compliance is not high when compared to the potential site-specific requirements that may be imposed in order to comply with an individual permit. Therefore this multi-sector general permit represents a significant cost savings over the individual permit option.

Six of these commenters also cited the high end of the EPA cost estimates as being too high for small businesses. In response to this, EPA wants to clarify that the high-end cost estimates will mostly, if not entirely, apply to larger, more complex facilities with more potential sources of pollutants and therefore a more comprehensive storm water pollution prevention plan. In deriving the cost ranges, EPA anticipated that most small business compliance costs would fall at the low end of the cost ranges.

Twenty-four of the twenty-eight commenters who believed that the estimated cost of compliance is too high also expressed concern that the proposed permit will bear an unfair burden on small businesses and possibly threaten their ability to remain in operation. However, several of these commenters based their position on the high end of the cost estimates, which are most likely to apply to larger facilities. In response to this concern,

EPA estimated the cost of compliance for a hypothetical small business in the automobile salvage yard industry. This example has been added to the fact sheet of the permit and illustrates an estimate of a small auto salvage yard costs that such a facility many actually incur in complying with this permit. The Agency expects that the actual cost of compliance with the permit for a hypothetical small automobile salvage yard would be $874 in the first year and $561 for each following year. The low-end estimate is appropriate for the majority of smaller facilities, with some facilities, like the hypothetical small auto salvage yard, likely to face even lower costs.

Nineteen commenters (including eleven of the twenty-eight who believe that the estimated cost of compliance is too high) stated that EPA's upper cost estimates given for complying with the proposed permit are too low. Many of the commenters questioned how EPA has developed its cost estimates and argued that the actual cost of compliance will greatly exceed the costs cited by EPA. In response, EPA does not believe its cost estimates are too low as mentioned above. EPA based the cost estimates in the proposed permit on those prepared for the baseline general permit. Because the compliance requirements in today's permit reflect those in the baseline permit, EPA believes that the cost of compliance with the multi-sector permit will be similar to the baseline permit. Actual costs for some facilities may be lower in some circumstances under the multi-sector permit because the multi-sector permit fact sheet provides guidance on the types of BMPs that may be applicable for an industry sector.

In addition, several other specific concerns were presented by small businesses. Sixteen small businesses commented that the compliance costs would force small businesses to either lay off employees or go out of business completely. Another seven commenters warned of the consequences that could result if small automobile recyclers were forced out of business by the cost of compliance with the permit. They argued that vehicles would be abandoned along roads, left in back yards, etc., resulting in a worse scenario than that which existed before the permit was put into effect. In response, EPA does not expect the costs of compliance with the multi-sector permit to force a small business out of business as described above. In developing the permit, the Agency considered not only the needs for storm water controls, but also the capabilities of each sector's facilities to maximize available in-house resources. EPA encourages facilities to use activities and controls already routinely conducted to the maximum extent possible to meet the permit requirements. EPA anticipates that many small businesses will be able to tailor their existing activities to satisfy many of the requirements of the multi-sector permit and that trade associations will help in developing model pollution prevention plans and in providing technical information and assistance to their membership.

Eight small business responses called for a small business exemption to eliminate storm water sampling and documentation requirements. They perceived the costs for sampling and documentation to be most burdensome on small businesses, many of which have limited human resources. In response, EPA is not providing exemptions in the multi-sector permit to businesses because of their size. However, EPA has changed several requirements of the permit which will reduce burden on the permittee. For example, comprehensive site compliance evaluations are now required only annually for all industrial sectors. EPA has also reduced some of the inspection requirements where appropriate. Additional revisions have been made to various industrial sector requirements to help reduce the burden on small business and other permittees.

Endangered Species Act (ESA) and National Historic Preservation Act (NHPA)

To address the provisions of the Endangered Species Act, the proposed permit denied coverage to any discharge which had "a direct or indirect effect upon a listed endangered or threatened species or its designated habitat". The permit allowed coverage to discharges with an impact on endangered or threatened species where the facility had obtained an incidental take permit from either the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS). The proposed permit required that a discharger seeking coverage, certify in its Notice of Intent (NOI) to be covered by the multi-sector permit that its storm water discharge will not have any direct or indirect effect on listed species or critical habitat unless the discharger had first obtained a permit under § 10 of the ESA (for incidental takings).

To comply with the provisions of the National Historic Preservation Act, the proposed permit denied coverage to discharges that "disturb a site that is listed or eligible for listing in the National Historic Register." A discharge that does disturb a historic site may be eligible for coverage if the facility obtained, and is in compliance with, a written agreement with the State Historic Preservation Officer (SHPO). The permit required that a discharger seeking coverage must certify in its Notice of Intent (NOI) to be covered by the multi-sector permit that its storm water discharge will not disturb a site that is listed or eligible for listing.

A number of commenters opposed these eligibility restrictions and suggested that the requirements be modified. Several commenters suggested that the permit allow coverage for all facilities initially, but include a provision which would allow the Director to exclude from coverage any discharge which was determined to have an impact upon a threatened or endangered species, or which disturbs a historic site. Others stated that the terms "no direct or indirect effect" in the ESA eligibility restrictions, and "will not disturb" in the NHPA eligibility restrictions are overly broad and subject to varying degrees of interpretation. These commenters requested clarification as to what constitutes a direct effect, an indirect effect or a disturbance. Still other commenters suggested that the eligibility requirements merely require the applicant to send a letter to the appropriate Agency requesting a determination of the facility's impact upon threatened species, endangered species or historic sites. These commenters argued that a facility does not have the resources to make a determination on its own. Several commenters suggested that the eligibility restrictions only apply to new facilities. They argued that existing facilities should not be required to make the determination because any effects or disturbances due to their discharges have already occurred.

Commenters also listed a number of reasons for removing the eligibility restrictions altogether. Many commenters stated that the permit inappropriately deferred EPA's responsibility to consult with FWS, NMFS or Historic Preservation Offices to the discharger. They argued that both ESA and NHPA require EPA to perform the consultation prior to issuing the permit. The commenters argued that the consultation would be costly and time consuming for dischargers to perform. Several commenters stated that the Services and Offices which would have to be consulted would be overwhelmed by the number of inquiries generated by the permit and unable to respond to requests for consultations in a timely manner. Other commenters stated that it was unnecessary to include the ESA and

NHPA requirements in the permit because facilities are already subject to these and other existing federal laws and regulations. Requiring compliance with these provisions in the permit places undue emphasis upon these statutes in comparison to all other laws and regulations.

In response to the comments regarding endangered species, the ESA requires, among other things, that EPA ensure, in consultation with the FWS and/or NMFS that actions it authorizes or carries out are not likely to jeopardize the continued existence of threatened and endangered ("listed") species or result in the destruction or adverse modification of the designated critical habitat of listed species. In addition, the ESA generally prohibits EPA, as well as those seeking general permit coverage, from "taking" listed species without the prior authorization of the FWS/NMFS.

To fulfill its responsibilities under the ESA, EPA developed a series of conditions in the proposed permit which were reviewed by the services during the consultation. The consultation culminated in the issuance of a FWS/NMFS Biological Opinion that EPA's approach would not likely jeopardize listed species, adversely modify critical habitat, or result in takes. The consultation also resulted in changes to the conditions of the permit for endangered species protection. The revised conditions represent a simplified process that should be easier for permittees to comply with, yet will still ensure that storm water discharges authorized under this permit will not adversely affect endangered species.

The revised ESA conditions require that an applicant comply with the ESA and be granted coverage under the permit only if the storm water discharges and BMPs to be constructed are not likely to adversely affect the endangered species listed in Addendum H of the permit; or the applicant has received previous authorization under the ESA and established an environmental baseline; or the applicant is implementing other appropriate measures, as required by the Director, to address adverse affects. In addition, the applicant must certify that their storm water discharges and potential BMP construction activities are not likely to adversely affect the species listed in Addendum H of the permit. Addendum H is a county-by-county listing of the endangered species upon which the consultation is based. EPA believes this new process fully implements the requirements of the ESA and the outcome of the consultation with FWS and NMFS, and is protective of endangered species. EPA also considers this revised approach to be a more practical and straightforward process for an applicant to gain coverage under the multi-sector general permit.

EPA expects that the vast majority of applicants will be able to meet the ESA certification requirement by either determining that no listed species are found in the county of the discharge or by determining that listed species found in the county are not in proximity to the discharge. EPA believes that requiring applicants to provide the certification commented upon is reasonable and necessary so that EPA may act to lawfully authorize an applicant's general permit coverage. See § 308(a)(A)(v).

EPA does not need to enforce every law and regulation through permits—only those which create obligations on EPA for *its* actions (through statutes such as the ESA and the NHPA) that are in response to permit applications presented to EPA by persons seeking to comply with the CWA, e.g., applicants for NPDES permits.

As to permit coverage for existing facilities, "action" under the pertinent ESA regulations includes "all activities. . .of any kind authorized by federal agencies. . .[including] the granting of. . .permits.. . ." 50 C.F.R. § 402.02. Agencies must consult with the FWS or NMFS wherever an action may affect listed species. 50 C.F.R. § 402.14. Given that storm water discharges from existing facilities may have new or continuing effects on listed species (in addition to past effects), there was a clear need for coverage of existing facilities also to be adequately protective.

In response to the comments raised regarding the NHPA, EPA recognizes that the National Historic Preservation Act ("NHPA") imposes obligations on the Agency to take into account the effect of permit issuance on historic properties. Today's general permit establishes a mechanism whereby the Agency can efficiently administer the permit and still take into account the effect of general permit coverage on historic properties consistent with its obligations under the NHPA. EPA will assure NHPA compliance primarily through the eligibility and certification requirements of the general permit. The general permit does not authorize discharges that (1) affect a property that is listed or eligible for listing on the National Register of Historic Places, unless (2) the applicant has obtained and is in compliance with a written agreement between the applicant and the State Historic Preservation Officer ("SHPO") that outlines all measures to be undertaken by the applicant to mitigate and prevent adverse effects to the historic property. Applicants for general permit coverage must certify that they have read and are in compliance with the eligibility provisions of the permit.

The operation of this mechanism should assure compliance with the NHPA for any authorization to discharge provided under today's permit. EPA anticipates the first component of the eligibility/certification mechanism will provide an adequate opportunity to take into account the effect on historic properties for the vast majority of discharges to be authorized under the permit. EPA anticipates that the preliminary evaluation by the applicant will quickly identify those discharges that may implicate concerns about historic preservation. The second component will allow for general permit coverage after effects have been effectively addressed (minimizing the need for an individual permit).

EPA recognizes that the eligibility/certification mechanism in today's permit will not resolve all historic preservation concerns that may arise due to control of storm water discharges. In some instances, the first component of the eligibility/certification may not assure "no effect" on historic properties, for example, if the applicant's certification of eligibility is subsequently determined to be false. In such instances, the discharge would be "without a permit" based on the eligibility provisions. In some instances, the applicant and the SHPO may have difficulty in reaching agreement on how to resolve historic preservation concerns. Such instances may necessitate EPA intervention or issuance of an individual permit. The eligibility/certification mechanism represents EPA's effort to assure Agency compliance with the National Historic Preservation Act consistent with the efficiencies of general permitting under the Clean Water Act.

Comprehensive Site Compliance Evaluations

The proposed permit contained requirements for facilities to perform and document comprehensive site compliance evaluations. The intent of the compliance evaluation is to: confirm the accuracy of the description of potential pollution sources at the site, determine the effectiveness of the storm water pollution prevention plan, and assess compliance with the permit. The evaluation should be conducted by members of the pollution prevention team. Deficiencies in the plan must be corrected within two weeks of the

evaluation and the corrections must be implemented within 12 weeks. Most of the industry sectors required the evaluation to be performed annually, however, a few sectors required more frequent comprehensive site compliance evaluations. For example, the chemical and allied products sector of the proposed permit required quarterly comprehensive site compliance evaluations. A few industry sectors allowed less frequent evaluations, for example the ore mining and dressing sector only required evaluations every three years at inactive mine sites.

Commenters expressed several concerns with the comprehensive site compliance evaluation requirements. The primary concern dealt with the required frequency for the evaluation. A number of commenters stated that the evaluation should not be required more frequently than once per year in any industry sector. Commenters stated that an annual evaluation was sufficient to assure compliance of the plan with permit requirements. Commenters also stated that the frequency should be consistent across all sectors unless more frequent evaluations could be justified. Commenters were also concerned with the time frame allowed to modify the pollution prevention plan following the evaluation. Commenters stated that two weeks is not sufficient time to obtain the resources necessary to modify the plan. A few commenters also felt that the comprehensive site compliance evaluation is redundant and duplicative of the inspections required by the storm water pollution prevention plan. The commenters argued that the evaluation should not be required unless the inspections reveal recurring problems with the plan. Finally, one commenter stated that the evaluation should be performed by an outside consultant or corporate official with expertise in storm water pollution prevention.

In response, EPA has reconsidered the frequencies of the comprehensive site compliance evaluation in the proposed permit and has standardized the frequency to once per year in all sectors, unless sector-specific justification is given for a more frequent inspection. EPA also wants to clarify that the comprehensive site compliance evaluation requirements are different from other inspection and monitoring requirements of the permit. The comprehensive site compliance evaluation is intended to be an overall comprehensive inspection that is conducted at a minimum on an annual basis where the pollution prevention plan is totally reviewed. The inspection should 1) confirm the accuracy of the description of potential pollution sources contained in the pollution prevention plan, 2) determine the effectiveness of the plan, and 3) assess compliance with the terms and conditions of the permit. These goals, in combination, are more comprehensive than the other inspection and monitoring requirements in the permit. The annual comprehensive site compliance evaluation also satisfies the minimum monitoring requirement of all NPDES permits (40 CFR 122.44(i)(4)). Therefore, EPA is retaining the requirement that all industrial sectors conduct an annual comprehensive site compliance evaluation. To the extent that this compliance evaluation overlaps with other inspections (e.g., daily inspections of storage areas), the comprehensive site compliance evaluation can be used in place of the other inspections. Because the comprehensive site compliance evaluations are intended in part to determine the effectiveness of the pollution prevention plan and compliance with the permit, EPA believes it is important that a member of the pollution prevention team be involved in conducting the evaluation.

In response to the concern about the two week timeframe being to short to fully implement changes to the plan if such are necessary as a result of the inspection, EPA disagrees and believes a clarification is necessary. Under the terms of the final permit, if a facility operator determines a deficiency in the storm water pollution prevention plan after conducting the annual comprehensive site compliance evaluation, then the permit provides for up to two weeks to modify the plan and then up to 12 weeks to implement the actual plan modifications. EPA anticipates that many plan changes will be procedural or programmatic in nature and as such should not take an excessive amount of time to perform. EPA expects these to be easily completed within the 12 week deadline. Where major changes are necessary that require construction, such as installation of a new structural BMP, the permit conditions allow for up to three years. EPA believes these timeframes are adequate and therefore no changes to the final permit have been made.

Response to Major Sector-Specific Issues

Timber Products Facilities

The proposed permit for timber product facilities does not cover nonpoint source silvicultural activities, such as timber harvesting operations and certain other silvicultural activities described under SIC code 2411, which may be exempt from the National Pollutant Discharge Elimination System (NPDES) permit program as described in the silvicultural definition at 40 CFR Part 122.27. Many commenters agreed that certain silvicultural activities are not covered by NPDES permit requirements and are best controlled under the section 319 nonpoint source program. Because these discharges are addressed by the section 319 nonpoint source program, some commenters recommended that the language in the permit and the fact sheet be changed from providing an "exemption" of these discharges to say that "certain silvicultural activities are not prohibited by or otherwise subject to these regulations." Other commenters requested that the language concerning coverage of silvicultural activities that is in the permit fact sheet, also be placed in the permit to avoid confusion.

In response, EPA believes that nonpoint source silvicultural activities not covered under this permit (e.g., harvesting operations, and certain other activities) are exempt from the NPDES permit program. Exempt activities do not need to obtain an NPDES storm water discharge permit. EPA does not believe that further clarification is necessary beyond that already stated in the fact sheet to the timber products sector. If a facility operator questions its regulatory status after reviewing the fact sheet, the operator should contact the permitting authority for the State in which it is located for additional guidance on its regulatory status.

Many commenters suggested that the definition of timber products activities not required to obtain NPDES permits for storm water discharges be expanded in the fact sheet. Some commenters wanted to include remote log sort/concentration yards that do not conduct processing activities. These commenters were concerned that the proposed permit groups all log sort/concentration yards into the same category as facilities processing timber products. They stated that the activities performed at these yards are similar to forest harvesting operations including unloading, stacking, storing and reloading roundwood. In addition, they stated that the pesticides, herbicides, and fertilizers presumed present at these sites are not usually there. Another commenter requested that forest roads be included as nonpoint sources, as well as forest recreational sites and national forest administrative sites that do not include treatment facilities. The commenter stated that these facilities could be effectively covered under nonpoint source programs.

In response, the permit fact sheet discusses coverage of certain silvicultural activities which are classified as storm water discharges associated with industrial activity under the NPDES storm water program and those which are considered to be nonpoint source discharges. This discussion explains the consistency between coverage under this multi-sector permit and existing NPDES storm water regulations defining storm water discharges associated with industrial activity for the Timber Products industry. EPA believes this discussion is clear and consistent with NPDES regulations and that further expansion of the definition of exempt nonpoint source activities at timber products facilities would be inconsistent.

Many commenters were concerned that the proposed sector had grouped together all facilities that perform any wood treating, including facilities that only end-treat boards with a paraffin wax. In response, EPA has grouped together all those facilities that perform any wood treating because they exhibit similar types of industrial activities at their facilities. The groupings were made because the documentation and data submitted in the group applications described them as similar. Therefore, wood preservers who treat their wood with paraffin were not separated from wood preservers, as a whole. In relation to monitoring, while the proposed multi-sector permit required specific monitoring by wood preservers and surface treaters, including those that only end-treat boards, the final multi-sector permit comprehensively changes the monitoring requirements for all timber products facilities due to a reassessment of the benchmark levels used to trigger monitoring and the revised sub-categorization approach to determining the need for industry sub-categories to monitor (See response to comments on monitoring provisions). Facilities that end-treat boards with paraffin are still required to monitor their storm water discharges, but for fewer pollutants. Although the revised monitoring provisions in the permit now require monitoring for all subcategories within the timber products sector, the revised alternative certification provisions should allow individual facilities with no exposure of the pollutants of concern to forego the need to monitor. In relation to pollution prevention plans, all timber products facilities will still be required to control pollutants discharged into storm water through the use of site-specific best management practices implemented through pollution prevention plans which are tailored to each specific facility on a case-by-case basis. This site-specific approach will allow a facility which end-treats wood with paraffin to design a pollution prevention plan appropriate for their facility.

The proposed permit authorized non-storm water discharges from the spray down of lumber at wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage. Several commenters supported the proposed permit condition as an acceptable non-storm water discharge. The commenters believed that the authorization of these discharges at timber processing facilities is appropriate because these discharges are intermittent and the activity is performed only when necessary. In response, EPA believes that these non-storm water discharges, where identified in a pollution prevention plan and where appropriate pollution prevention measures are implemented, can be effectively controlled under today's multi-sector permit and therefore are allowable non-storm water discharges.

Numerous entities commented on the pollution prevention plan for timber product facilities. Many commenters supported the use of best management practices in that they allow the permittees to determine the most efficient and cost-effective measures for controlling pollutants in storm water discharges. Several commenters provided lists of additional BMPs that are appropriate for use at timber product facilities. However, many commenters stated that the proposed requirement for daily inspections of "material handling activities and unloading and loading areas whenever industrial activities occur in those areas" is confusing because these areas are considered industrial activities. In addition, they believe the proposed frequency of the inspections is overly burdensome and clarification of the required documentation is needed. Some facilities stated that they already conduct inspection of material handling and loading/unloading areas when chemical preservatives are shipped or received. Some commenters suggested that no documentation be required.

In response, EPA would like to clarify that the proposed requirement was intended to require site personnel to inspect the areas where material handling and loading/unloading activities were occurring on a daily basis. These areas would be inspected on those days when material handling or loading/unloading activities were occurring but would not be required to be inspected when the activities were not occurring. This requirement was placed in the permit because these areas are subject to leaks and spills of materials, tracking of spilled chemicals by equipment, discharge of wood debris and dust generation from heavy equipment. Daily inspection of these areas would only require that someone be responsible for examining each of the areas to determine which BMPs should be implemented to limit the contamination of storm water discharges. For example, the inspector may see that a small amount of a chemical has been spilled near a loading dock which could potentially either be tracked away from the site on truck tires or if it rained could enter the storm water discharge. With daily inspections of these areas, the inspector could immediately initiate clean up of the spill and make suggestions for additional BMPs to be implemented into the plan to avoid future spills. No elaborate documentation of these inspections is required, however, the facility's pollution prevention team should develop a simple method of tracking whether someone has observed the areas when material handling and loading/unloading activities are being performed on a daily basis. If follow-up measures are appropriate in response to the inspection, these should be documented as well. For example, the documentation may simply be checking a log sheet and stating on the sheet that the inspection was performed on a particular day. Follow-up action may require initiating the work and marking a log sheet stating that the work was performed.

EPA disagrees that daily inspections would be burdensome. The inspection of material handling and loading/unloading areas is being required daily (when activities are occurring in those areas) because of the nature of the activities. These activities create a high risk for discharging pollutants to storm water discharges and require that more frequent assessments be made to ascertain the effectiveness of BMPs in those areas. These inspections, which should become a simple daily routine, may be made by personnel who are already in these areas at the time the activity is occurring. If inspections are already being conducted at material handling and loading/unloading areas when chemical preservatives are shipped or received then these can be incorporated as part of the pollution prevention plan and may satisfy part of the requirement. In addition, EPA believes the commenters are confused by the proposed language for daily

inspections of material handling and loading/unloading areas in the permit. Therefore, the language in today's multi-sector permit will clarify this requirement.

Numerous comments were received on the requirement to perform monthly inspections at processing areas, transport areas and treated wood storage areas of facilities performing wood surface protection and preservation activities. The commenters argued that these inspections are unnecessary because employees are currently trained to prevent drippage of treatment chemicals on unprotected soils. They feel these requirements are duplicative of requirements under RCRA Subpart W. EPA disagrees that these inspections are unnecessary. Documentation associated with the listing of wood preserving and wood surface protection wastes at 40 CFR 261 showed that there remains a potential for storm water to become contaminated through incidental activities such as tracking of material, fugitive emissions, rushed operations and miscellaneous other activities. EPA therefore believes it is necessary to require these inspections so that site personnel may identify sources of pollutants and to implement BMPs to minimize contamination of storm water discharges at each facility. Where inspections of this type are being conducted for another program requirement, such as for RCRA, those inspections can suffice for meeting the requirements of this permit.

Some commenters were concerned that the requirement to identify areas where soils are contaminated as a result of past surface protection and preserving activities would be too burdensome. Some commenters stated that it might require extensive and very expensive testing of areas to determine where residual contamination remained and may even require expensive environmental site assessments. Several commenters argued that areas where contamination still remains could be identified through the site inspections, and once identified could then be remediated. In response, EPA disagrees that the requirement is too burdensome. The proposed permit stated that "Where information is available, facilities that have used chlorophenolic, creosote, or chromium-copper-arsenic formulations for wood surface protection or preserving activities on site in the past should identify in the inventory the following: areas of contaminated soils, treatment equipment and stored materials that still remain and practices employed to minimize the contact of these materials with storm water runoff." If information is readily available, then the pollution prevention team would merely incorporate that information into the plan and identify pollution prevention measures to minimize contact with run-off. If the information is not available, no additional site assessments would be required. The fact sheet language in today's multi-sector permit clarifies this requirement.

In general, commenters supported the proposal that timber product facilities that do not surface protect or preserve should not be required to monitor their storm water discharges. These commenters agreed that storm water pollution prevention plans provide the necessary protection for controlling storm water pollution at timber product facilities. Many comments were received on the sampling and monitoring required by those timber products facilities that use formulations for wood surface protection and preservation. Many of the commenters were opposed to the sampling and monitoring requirements because they would impose significant administrative and economic burdens on wood preserving facilities in particular. They stated that the data obtained through the proposed monitoring program would provide marginal benefits to EPA because the highly variable data could not be used to measure the performance of BMPs. They believe that the efforts and expenses would be better used in developing and implementing pollution control measures. A few commenters also argued that wood preserving facilities should not have to monitor for TSS, COD and BOD because the requirement is based on concentrations from NURP studies which were performed in residential areas and because these pollutants are not toxic to aquatic life. Some commenters were opposed to monitering requirements at remote storage sites because there is neither meteorological equipment nor staff available and transportation to these sites is very difficult.

Some commenters did not agree with the requirement for facilities that use copper-chromium-arsenic formulations to sample for both copper and arsenic because it is not supported in the data. These commenters suggested that, if additional data was needed, only one of the parameters (copper) be monitored because sampling for both was unnecessary. Other commenters argued that arsenic should not be required to be sampled because, while toxic to humans if ingested, it is not toxic to aquatic organisms. Numerous commenters argued that timber product facilities where chlorophenolic formulations were used in the past for wood preservation should not be required to monitor storm water discharges for pentachlorophenol where prior testing has shown that there is no chlorophenolic residue at the facility.

A number of commenters in this sector also commented about: the proposed cut-off concentrations that would be used to determine whether facilities must sample during the fourth year of the permit term or under the alternative certification provisions of the permit; the variability of pollutant concentrations in storm water discharges; the eventual imposition of effluent limitations based on the cutoff concentrations; the use of total recoverable metals analyses; the toxicity of pollutants to aquatic organisms given receiving water dilution during wet weather events; the alternative monitoring provisions proposed in the fact sheet; the use of visual monitoring; the quality of the part II sampling database; the identification of priority sectors for monitoring and other monitoring issues that are discussed under the monitoring section of this summary.

As a result of the comments on monitoring throughout the multi-sector permit, EPA has revised the methodology for determining which sectors need to monitor (See discussion under monitoring). The methodology developed for the final permit analyzed the group application data based on three digit (or more) sub-sectorization of the industries represented in the groups. Based on this revised methodology, the timber products sector has been divided into four sub-sectors for data analysis. These four sub-sectors are SIC code groups 2421 (sawmills and planing mills), 2491 (wood preserving), 2411 (log storage), and 2426/2429/243/244/245/2493/2499 (millwork, veneer, wood containers, plywood and structural wood, and wood products not elsewhere classified). Using the data in the group application database, and data submitted subsequent to development of the database, EPA analyzed the monitoring requirements for these four sub-sectors using the revised benchmarks. As a result, EPA is now requiring monitoring of all four sub-sectors in the timber products sector. SIC code 2421 will monitor for COD, TSS and zinc. SIC code group 2491 will monitor for total recoverable arsenic and total recoverable copper, SIC code group 2411 will monitor for TSS and SIC code groups 2426/2429/243/244/245/2493/2499 will monitor for COD and TSS. In addition, the timber products industry must perform quarterly visual examinations of their storm water pollution prevention plan. EPA believes

these revised monitoring requirements are responsive to the major comments received on the proposed monitoring provisions in that the monitoring is more industry-specific due to the sub-sector approach and that this approach more accurately identifies the pollutants of concern within each industry subsector. In response to the issue of whether a remote facility should be required to comply with the monitoring provisions, EPA realizes that if a facility is inactive and unstaffed it may be difficult for the operator to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly chemical sampling. In addition, if an active facility cannot collect a sample within a given quarter due to weather problems, inaccessibility, etc. then the permit allows the facility operator to take a replacement sample in the next quarter.

With regard to the requirement to conduct monthly visual examinations, EPA has reduced the visual examination schedule for active sites to only quarterly and has allowed a waiver of this requirement for inactive, unstaffed facilities. The operator should consult their permitting authority. Under these circumstances, the multi-sector storm water permit may not be a feasible permit for the facility and an alternative storm water discharge permit may be more appropriate.

Chemical and Allied Products Manufacturing

EPA received 19 comments specifically concerning the Chemical and Allied Products Manufacturing sector. A common concern of these commenters was a disagreement with EPA's grouping of all chemical and allied product manufacturers into one sector. Various commenters stated that they should not be in the same sector with certain facilities which they believed posed more of a threat to water quality. Several commenters suggested that this sector be subdivided with different requirements for each of the subdivisions.

Although the proposed permit divided the Chemical and Allied Product Manufacturing sector into eight subsectors, it applied the same requirements to each of these subsectors. Commenters expressed dissatisfaction with this aspect of the proposal. One commenter stated that some groups in this sector should get monitoring exemptions granted if they can demonstrate that they are substantially different from other groups in the sector. Commenters raised several other issues. One stated that there is no such thing as a typical chemical manufacturing facility and that EPA needs to visit each in the "broad array of chemical facilities" in order to understand the diversity of the industry. EPA understands that there may be significant differences between facilities in each sector and even within a subsector. Each facility has its own unique land features, operations and storage activities, material management practices, and chemical product manufacturing, packaging, and transferring techniques. It is not feasible that EPA visit each facility that will be regulated under this permit and in fact this level of scrutiny would best lead to the development of an individual storm water discharge permit for each chemical manufacturing plant. However, this is not the intent of this permit action, which is to issue a storm water general permit for similar types of industrial activities described under this sector and subsectors. In recognition of the differences between facilities, EPA is issuing a flexible storm water general permit, which allows each permittee to develop a pollution prevention plan for their own facility. This permit also contains an "alternative certification" condition, which allows a waiver for any chemical monitoring requirement for a pollutant that the permittee believes is not present at the facility.

One commenter stated that the proposal arbitrarily and capriciously requires thirty (30) mandatory structural and non-structural Best Management Practices (BMPs) and that EPA should defer BMP selection to the discretion of the facility operators. In response to this concern, EPA has reviewed the requirements in this sector, and for all other sectors, for BMP implementation and has revised the final permit to maintain flexibility in the selection of BMPs to be implemented at any particular industrial activity. The facility operator is allowed to choose the best type of management practices for their facility and their particular storm water problems. The permit does not mandate specific structural controls.

Asphalt Paving and Roofing Materials and Lubricant Manufacturing Facilities

Several commenters indicated that there should be further subdivision of the industries covered by the asphalt paving and roofing materials manufacturers and lubricant manufacturers sector. Commenters indicated that the industries covered by the sector do not have similar raw materials, finished products or processes. EPA realizes there are differences in the industrial activities covered under this section of the permit. EPA has analyzed the sampling data for the asphalt paving and roofing materials manufacturers separately from the lubricant manufacturers. The determination of the monitoring requirements for the final permit were made based upon the subsector analyses, not upon analyses of the entire sector's data. Although there were differences in the concentrations of pollutants in storm water discharges from these types of facilities, these differences are not substantial. Regardless, the permit requirements allow for variation from facility to facility. The operator must prepare a storm water pollution prevention plan based upon the sources of contamination which they identify.

Commenters also expressed concern with the portion of the proposed permit's fact sheet which discusses the potential pollutants of concern. Commenters stated that they disagreed with EPA's characterization of several pollutants being "of concern". The commenters felt that the part 2 application sampling results clearly indicated that these pollutants were not of concern for the industry.

The pollutants of concern are the parameters listed in the fact sheet as potentially being present in the storm water discharges and they may be different from the pollutants which a sector is required to monitor. These pollutants are listed based upon significant materials and industrial activities and other information submitted in the group applications. The listing of these pollutants provides guidance to facility operators in helping identify potential sources of storm water contamination and in selecting appropriate BMPs. EPA believes that the Part 2 sampling results cannot be the sole factor considered when selecting pollutants of concern for an industry. Permit writers must also consider all significant materials and industrial activities exposed to storm water.

Several commenters reinforced EPA's decision not to include analytical monitoring requirements for the asphalt or lubricant manufacturing facilities. A number of commenters stated their opposition to the alternative monitoring requirements included in the proposed permit's fact sheet. (The alternative monitoring requirements included annual analytical requirements for TSS, COD, pH and oil and grease.) One commenter expressed support for the analytical requirements, indicating that this would be the best way to evaluate the effectiveness of the storm water pollution prevention plan.

Based on the revised methodology for determining pollutants of concern (discussed under monitoring), EPA has determined that limited analytical monitoring requirements are necessary to aid the asphalt or lubricant manufacturing facilities in evaluating the effectiveness of the permit. Today's permit contains analytical monitoring requirements for total suspended solids (TSS) from these facilities. There are also compliance monitoring requirements for asphalt emulsion manufacturing facilities which are subject to the storm water effluent limitations guidelines. Facilities in this sector should not overlook this requirement.

One commenter indicated that the frequency of the visual examination of storm water discharge was burdensome and suggested reducing the frequency to a semi-annual basis. In response EPA believes that facilities must perform visual examinations of storm water discharges in order to assess the effectiveness of the storm water pollution prevention plan over the course of the year. The discharge of pollutants may be impacted by the seasonal weather changes, or operational changes that occur over the course of 6 months. It is necessary for a facility to examine their storm water discharge on a quarterly basis to assess how these changes impact the quality of the discharge. The same commenter also suggested that a facility not be required to perform the visual exam after two consecutive "clean" samples are observed. EPA does not agree with the commenters suggestion. It is not possible to define a "clean" sample for a visual examination, because the visual exam is subjective. The exam is not intended to provide facilities with an absolute means of comparing their discharge to other facilities' discharges, it is intended to provide operators with a relative comparison of the discharge quality from one period to another.

One commenter indicated that the compliance monitoring requirements and numerical effluent limitations should be eliminated for the asphalt roofing emulsion manufacturing facilities. The commenter felt that group application sampling data showed there was no need for monitoring. EPA's response is that the numerical effluent limitations for storm water discharges associated with asphalt roofing or pavement emulsion must be included in any NPDES permit which covers these discharges as required by the effluent limitations guideline at 40 CFR Part 443. The permit must also require at least annual monitoring for any pollutant limited by the effluent limitations guideline. These are requirements which cannot be modified in the context of this permit issuance.

Stone, Clay, Glass, and Concrete Products

There were a number of comments received regarding the proposed permit requirements for the glass, clay, cement, concrete, and gypsum product manufacturing sector. These comments focused primarily upon three areas; the types of industrial activities addressed under the sector, the storm water pollution prevention plan storm water pollution prevention plan requirements, and the monitoring requirements.

Several commenters indicated that they believed the sector included too diverse a range of industrial activities, and that sectors should be created for each of the various industrial activities currently covered under the one sector. Commenters were concerned that industries with relatively little discharge of contaminated storm water had been placed into a sector with industries with higher contamination, and that more stringent monitoring requirements were being placed upon their industry than would have been required had their industry or group been considered separately.

In response to these and other concerns, EPA has revised its methodology for determining the monitoring requirements. EPA divided this sector into four subsectors for further data analyses and comparison to benchmarks. The subsectors included: glass products manufacturing, cement manufacturing, clay products manufacturing, and concrete products manufacturing. Monitoring requirements were determined based upon this subsector analyses.

However, in relation to the storm water pollution prevention plan requirements for the sector, these requirements remain the same as proposed. EPA believes there is sufficient flexibility within these requirements to allow the each permittee to select the most appropriate measures for their site. Therefore, subsectored pollution prevention plan requirements were not added to the final permit.

Commenters also expressed concern that the storm water pollution prevention plan requirements for this sector are burdensome, particularly the requirements for storage of fine granular solids, removal of spilled materials, and management of runoff. One commenter stated that storage of bulk dry materials in an enclosed area would be too costly, and that covering the materials with a tarp would be impractical given the need to access the piles. In response, EPA wishes to clarify that today's permit requires that facilities prevent the exposure of fine, dry granular solids to storm water. The permit does not require these materials to be enclosed, or permanently covered. At a minimum, a facility must cover these storage piles while the piles are not in use and while it is raining. However, the piles need not be constantly covered, provided a tarp or other removable cover is near by. It should also be clarified that the requirement does not apply to coarse granular material such as sand or gravel, only to fine granular materials that are readily suspended or dissolved into storm water such as cement or fly ash.

The same commenter stated that a facility should be permitted to select the BMPs for removal of spilled materials from paved areas. In response, EPA wishes to clarify that the permit allows "regular sweeping, or other equivalent measures" therefore the permit does provide the permittee flexibility in selecting the methods for removing spilled materials.

The majority of the comments received regarding the requirements for glass, clay, cement, concrete, and gypsum product manufacturing facilities addressed the monitoring requirements contained in the proposed permit. Many of these comments addressed the methodology for selection of this sector as a "priority" monitoring sector. These comments expressed concern that the monitoring methodology did not consider the variation in industrial activities within the sector.

The comments also expressed concern that the bench mark or "cut-off" concentrations were too restrictive. As a result of these and other comments, EPA has modified the methodology for selection of industries as "priority monitoring sectors (comments regarding the methodology for selection are addressed separately in this attachment). The selection of industries and parameters for monitoring was made at the subsector level. Sampling requirements for the glass subsector, the cement subsector, the clay subsector, and the concrete subsector were determined separately. The results of the modification in the monitoring methodology are a reduced list of parameters for analytical monitoring in the concrete, clay and cement products manufacturing facilities.

A number of commenters endorsed the alternative monitoring requirements which were included in the fact sheet for the proposed permit because these requirements only consisted of visual examination of discharge without any

analytical monitoring. After further review and consideration of the sampling data submitted, EPA has determined there is a significant potential for the clay and concrete products facilities to discharge pollutants at high concentrations. Sampling at these facilities during the term of the permit is necessary to determine the presence of pollutants and to assess the effectiveness of the storm water pollution prevention plan in controlling them. The alternative monitoring requirements are not included in today's permit for this sector.

Several commenters state that the requirements for monthly visual examination of storm water is unreasonable, and burdensome. In response, EPA has determined that a monthly visual examination is not necessary and that a quarterly (four times per year) visual examination of storm water discharge will provide sufficient information to the permittees in evaluation of the storm water pollution prevention plan, without imposing a substantial burden on the facility.

Primary Metals

A number of commenters were opposed to the use of benchmark levels for the determination of which sectors should conduct monitoring, or opposed benchmark levels for specific pollutants as being inappropriate. Generally, commenters expressed concern that the benchmark levels were unrealistically low and would result in monitoring requirements even for "clean" facilities. Primary metals facilities were especially concerned about the proposed benchmark level for pyrene, which commenters believed was below detection levels, and is not used by many facilities in the industry.

In response, EPA has reevaluated benchmark levels for all pollutants, and has adjusted the level for several. The new benchmark level for pyrene is 0.01 mg/L based on a laboratory derived minimum level (ML). Because of this new benchmark, facilities in the Primary Metals sector are no longer required to monitor for pyrene under the standard monitoring requirements of this sector. In addition, flexibility has been added to the permit through the adoption of an alternate certification that allows facilities that can certify that they do not have exposure of a particular pollutant to storm water to eliminate monitoring for that specific pollutant.

EPA received many comments opposing the combination of several group applications into the primary metals sector. Commenters pointed out differences between industry subgroups and requested different requirements for different subgroups. Several commenters stressed that unless monitoring requirements were to be determined based on subgroups within the sector, that additional flexibility was needed to account for the wide variety of facilities within the sector.

Although EPA agrees that industries within the primary metals sector conduct a variety of activities, the flexible conditions of the permit address those differences adequately. In response to comments regarding inappropriate grouping of industry sectors, sampling data has been reevaluated at the 3 digit SIC code level to determine which facilities will be required to conduct monitoring. Facilities in the primary metals sector have been subdivided into seven groups: SIC 331—steel works, blast furnaces, and rolling and finishing mills; SIC 332—iron and steel foundries; SIC 333—primary smelting and refining of nonferrous metals; SIC 334—secondary smelting and refining of nonferrous metals; SIC 335—rolling, drawing, and extruding of nonferrous metals; SIC 336—nonferrous foundries (castings); and SIC 339—miscellaneous primary metals products. The final permit monitoring requirements now apply to only facilities in SIC groups 331, 332, 335, and 336.

Some commenters also opposed the monthly inspections and visual monitoring requirements, as well as the quarterly comprehensive site compliance evaluations for this sector. EPA has dropped the monthly facility inspections and visual monitoring requirements. EPA believes that quarterly facility inspections and visual monitoring should be adequate to evaluate the effectiveness of the pollution prevention plan. The requirements for conducting comprehensive site compliance evaluations have also been modified. Comprehensive evaluations will be required only on an annual basis for this sector rather than quarterly, as proposed.

Many commenters suggested alternate monitoring frequencies than those proposed. Generally, commenters felt that monitoring four times per year in years 2 and 4 was unnecessarily burdensome, impractical, or unrealistic, especially in arid and remote locations. Some commenters suggested that monitoring one or two times per year would provide representative data at less expense to regulated facilities.

EPA disagrees that quarterly sampling is unrealistic and has provided some flexibility for active facilities that do not experience a representative storm event during the required sampling period. When a discharger is unable to collect a sample during a monitoring period due to adverse climatic conditions, the discharger may collect two samples from two separate qualifying storm events in the next period and submit these data. This waiver is only intended to apply to insurmountable weather conditions such as drought or dangerous conditions such as lightning, flash flooding, or hurricanes. EPA believes that quarterly sampling will allow better characterization of storm water discharges and assessment of the effectiveness of the facilities' pollution prevention plan, without placing an undue burden on permittees. Annual sampling could not accomplish an adequate assessment.

Several commenters expressed opposition to the potential inclusion of whole effluent toxicity (WET) testing under the multi-sector permit and characterized WET testing as expensive, impractical, inappropriate, and useless. Although EPA is not including WET testing under the terms of today's permit for this sector, EPA disagrees that WET testing is inappropriate for testing storm water discharges. EPA believes that WET testing can be a valuable monitoring tool in certain circumstances.

Metal Mining

Comments on permit requirements in the metal mining (ore mining and dressing) sector, focused on the application of the effluent limitation guidelines, compliance time, grouping of facilities, end-of-pipe treatment, definition of inactive and active mining, scope of coverage offered by the permit, and monitoring requirements.

A special condition of the multi-sector general permit is that those discharges subject to the effluent limitations guidelines (ELG) for the Ore Mining and Dressing Point Source Category (40 CFR 440) cannot be covered under the permit. Table G–4 in Part VIII.G. of the Fact Sheet contains a listing of various sources of discharges at active metal mining facilities and specifies whether or not discharges from those sources are subject to the ELG. Several commenters contend that through this clarification, EPA will expand the scope of discharges subject to the ELG by including storm water runoff from overburden, waste rock piles, haul roads, and other sources as being subject to the ELG. The commenters contend that storm water runoff from these sources previously had not been subject to the ELG and

could, in the past, be permitted as storm water discharges.

EPA believes Table G–4 represents a clarification of the relationship of ELG and storm water at active metal mining sites, and does not expand the current ELG requirements. EPA also believes the development document and the ELG support the interpretation given in Table G–4. In the November 6, 1975 preamble to the effluent limitations guideline, it states "The definition of a mine was intended to be sufficiently broad to cover all point source pollution resulting from all of the activities related to operation of the mine including drainage tunnels, haul roads, storage piles, etc." (40 FR 51727). In the 1978 development document (Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Ore Mining and Dressing Point Source Category, EPA, July 1978, page 146), the following definition of a mine was given for purposes of recommending subcategories and effluent limitations guidelines and standards:

> A mine is an area of land upon which or under which minerals or metal ores are extracted from natural deposits in the earth by any means or methods. A mine includes the total area upon which such activities occur or where such activities disturb the natural land surface. A mine shall also include land affected by such ancillary operations which disturb the natural land surface, and any adjacent land the use of which is incidental to any such activities; all lands affected by the construction of new roads or the improvements or use of existing roads to gain access to the site of such activities and for haulage and excavations, workings, impoundments, dams, ventilation shafts, drainage tunnels, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas and other areas upon which are site structures, facilities, or other property or materials on the surface, *resulting from* or incident to such activities (emphasis added).

It is important to note that the definition of "mine" includes the term "resulting from". Thus, something "resulting from" the mining activity is considered part of the active mine even though there is no activity at that specific part of the mine (e.g. waste rock is no longer being placed on a waste rock pile that is part of the mine). It would continue to be considered as part of the active mine until reclamation is started on that same portion of the mine. Residuals (waste rock piles, tailings piles, etc.) from historical mining at the site are not part of the active mining area unless they are re-disturbed by the current mining activity. The revision of the ELG in 1982 addressed best available technology economically achievable (BAT), best conventional pollutant control technology (BCT), and best available demonstrated technology (BADT). That revision did not address the issue of what discharges were subject to the ELG. The definition of mine remained unchanged. In 1983, training sessions on how to implement the ELG were held for permit writers from EPA Regions and approved NPDES States. The guidance document used for those training sessions included the following Statement:

> "Active mine areas" include the excavations in deep mines and surface mines; leach areas; refuse, middling, and tailing areas; tailing pond, holding and settling basins; and other ancillary areas to a mine or mill. Active mine areas do not include areas unaffected by mining or milling.

Based on the above, it is EPA's position that the following storm water discharges at active metal mining facilities are not subject to the ELG and can be covered by the multi-sector general permit: offsite haul/access roads; onsite haul roads not constructed of waste rock or spent ore; runoff from tailings dams/ dikes when not constructed of waste rock/tailings; concentration building and mill site if storm water only and no contact with material storage piles; chemical storage area; docking facility; explosive storage; fuel storage; vehicle/equipment maintenance area/building; vehicle/ equipment parking areas; power plant; truck wash area; reclaimed areas released from reclamation bonds prior to December 17, 1990; and partially/ inadequately reclaimed areas or areas not released from reclamation bond. Storm water discharges from inactive mining facilities can be covered under the multi-sector permit.

In developing Table G–4, consideration was given to such factors as the nature of the source, the materials in the sources (e.g. raw materials, intermediate products, or waste products from the mining and milling operations), and whether or not it was likely that source was considered in the development of the ELG. It was decided that runoff from on-site haul roads not constructed of waste rock or spent ore, and runoff from tailings dams/dikes not constructed of waste rock/tailings should not be considered subject to the ELG because they do not have the same potential for containing toxic pollutants as do mine wastes. Such runoff would be similar to that from non-mine facilities.

Two commenters stated that if the scope of discharges subject to the ELG for the Ore Mining and Dressing Point Source Category is expanded, then the permit needs to allow additional time (up to 3 years) to come into compliance with the effluent limitations as was proposed for the effluent limitations in the mineral mining sector. As explained in the response to the previous comment, Table G–4 is a clarification, not an expansion, of the discharges subject to the ELG. The multi-sector general permit does not authorize (apply to) discharges subject to the ELG for metal mining (i.e., 40 CFR Part 440). Therefore, a schedule for achieving compliance with those effluent limitations is not appropriate for the multi-sector general permit. Furthermore, the statutory deadline for compliance with the ELG is past.

A commenter felt that the draft multi-sector permit is extremely generic and lumps together all facilities in an extremely broad industry sector (e.g., ore mining and dressing), regardless of differences in product, processes used, or topographic and climatic conditions. The commenter further stated that difficulties caused by generic treatment of disparate facilities in a broad industry "sector" (e.g., the ore mining and dressing sector) are exemplified by the manner in which EPA determined the need for analytical monitoring requirements. The commenter had understood the purpose of the group application process to be the development of tailored, industry-specific permits for groups of facilities located in very similar areas, with permit conditions being tied to the particular circumstances of those facilities as described in the group application (including the sampling data provided in those applications).

This comment is similar to comments on several other sectors of the permit. The requirements to develop a storm water pollution prevention plan for metal mining facilities allows a great deal of flexibility to take into consideration such variables as type of ore being mined, pollutants of concern, type of mine, and local topography and climate. It would be difficult to have a variety of monitoring options to cover the various combinations of ores and climates, given the limited data submitted. Decisions being made on benchmark values may reduce monitoring requirements. Two commenters felt that imposing end-of-pipe treatment requirements for storm water discharges from mining operations, such as those contained in the ore mining and dressing effluent limitation guidelines, is both impractical and unnecessary. In the commenters opinion, the use of BMPs is

more appropriate than the use of numerical effluent limitations.

This comment appears to be related to a previous comment about EPA expanding the scope of discharges from metal mining facilities that are subject to the effluent limitations guidelines (ELG) for the Ore Mining and Dressing Point Source Category (40 CFR Part 440). As previously mentioned, those discharges subject to the ELG are not authorized by the multi-sector permit. The storm water pollution prevention plan requirements in the permit do not include the requirement to use end-of-pipe treatment for those storm water discharges from metal mining operations that can be covered by the permit. In some situations end-of-pipe treatment may be the appropriate means of control and should be used. That would be determined on a case-by-case basis.

With regard to the definition of inactive metal mining and dressing facilities, two commenters stated that the proposed 10-year period for declaring inactive status is arbitrary. They suggest that a more logical date for the distinction between active and inactive facilities would be December 17, 1990, which is now expressly referenced in EPA's storm water regulations at 40 CFR § 122.26(b)(14)(iii).

In response, some metal mining facilities may be temporarily shut down due to poor market conditions (e.g., uranium mines), seasonal conditions (e.g., heavy winter snows), and/or other factors. Some of these facilities are "mothballed" with the intent of bringing them back into operation when conditions improved to an acceptable level. For purposes of the multi-sector permit it was decided to consider such facilities as "temporarily inactive" rather than inactive. The distinction between "temporarily inactive" and "inactive" often is unclear when no reclamation activities have occurred at the site. In the draft permit the distinction between temporarily inactive and inactive was a period of ten (10) years with no mining and/or milling activity at the site. In the final permit the determination will be based on whether or not the facility has an active mining permit issued by the applicable (federal or State) governmental agency that authorizes mining at the site. All States now have agencies that have the authority to authorize mining on non-federal lands. Even though there may be no activity at the facility, it will be considered temporarily inactive as long as it has a permit for mining activity at the site.

The definitions of inactive and temporarily inactive facilities have been revised somewhat to reflect what EPA believes to be the appropriate distinction between the two definitions. In order for a site, or portion thereof, to be considered "inactive," there must not be any current metal mining and/or milling activities, as defined in this permit, at that portion of the site and that portion of the facility does not have an active mining permit issued by the applicable governmental agency that authorizes mining at the site.

A metal mining facility, or portion thereof, is considered to be "temporarily inactive" if metal mining and/or milling activities occurred in the past, but currently are not being actively undertaken, the facility has an active mining permit issued by the applicable governmental agency that authorizes mining at the site. There is no time limitation on how long such a site can be considered to be temporarily inactive. EPA believes such sites should provide the extra storm water pollution prevention requirements that the temporarily inactive status requires compared to what is required for inactive status.

The proposed permit would require metal mining sites to identify, in pollution prevention plans, the outfalls from the site that contain mine drainage or process water and designate for each outfall the boundaries of the area that contribute to such areas. A commenter objected to this permit condition as being beyond the scope of the proposed multi-sector permit. Except for primary metals industrial sector, this is not being required of other industrial sectors.

In response, Part XI.G.3.a(3)(a)(i) of the draft permit stated "A site topographic map shall be included in the plan that indicates, at a minimum: . . . and boundary of area that contributes runoff to outfalls that are subject to effluent limitations guidelines." EPA would like to clarify that the last part should read ". . . . boundary of tributary area that is subject to effluent limitations guidelines." Those discharges that are subject to effluent limitations guidelines (ELG) need to be regulated under another permit. It is the permittee's responsibility to identify discharges that are not authorized under this permit, but that mix with those storm water discharges that are authorized by the permit. This requirement is included in the metal mining sector because at most metal mines there are numerous areas where the storm water runoff is subject to the ELG. That is not the situation for most of the other sectors covered under the multi-sector permit.

One commenter stated that EPA should clarify that storm water permits are not required for discharges at mining sites which are not contaminated by contact with significant materials. This comment also applies to the coal mining and mineral mining sectors.

In response, based on the definition of storm water discharges associated with industrial activity (40 CFR 122.26(b)(14)(iii)), a permit is required for discharges from mining and milling facilities where the discharge has come into contact with any overburden, raw material, intermediate products, finished products, byproducts, or waste products located on the site. The exception is for discharges from areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or for discharges from areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990.

Two commenters felt that EPA's proposed analytical monitoring requirements for metal mining facilities should be substantially reduced, and they should be eliminated if EPA does not retract its proposed overly expansive interpretation of the Part 440 regulations.

In response, EPA has reevaluated the monitoring requirements for all the sectors of the multi-sector general permit and the number of pollutants for which monitoring is required for the metal mining sector has been reduced. EPA does not see any reason why the monitoring requirements should be further reduced just because EPA provided clarification as to what sources are subject to the effluent limitations guidelines for Metal Mining and Ore Dressing. The determination of the monitoring requirements for the metal mining sector was based on an evaluation of the monitoring data submitted with the group applications for metal mining facilities. The activity status of many metal mining facilities was taken into consideration in determining the monitoring requirements. Monitoring for the metal mining sector was limited to the active facilities.

Oil and Gas Extraction

Comment on Sector I, the oil and gas extraction sector, focused on coverage allowed under the general permit for oil and gas sites and pollution prevention plan requirements, particularly for remote, unmanned sites. Representatives of the oil industry made

the comment that the landfarming of oilfield wastes as a practice to allow biological break down should be covered by this sector of the general permit. They state that this is a common practice at exploration and production facilities sites and should be considered a part of the oil and gas facility activity and not an industrial waste land application site subject to the requirements under the land application sector in part XI.L. of the multi-sector permit.

In response, EPA would first like to note that the land application or disposal of oilfield wastes, produced waters, and oilfield drilling muds is an activity that is regulated by most States; and as such must be taken to State approved disposal sites. The discharge of any of these materials and their associated pollutants to a water of the U.S. is not authorized under this sector. Although, in theory, the practice of landfarming oilfield wastes would seem consistent with a no discharge requirement, there is the potential for pollutants from these land application sites to be discharged in storm water runoff and as such should comply with the permitting requirements of 122.26(b)(14). The oil and gas industry is not unique in that it land applies industrial wastes as a disposal practice. EPA must be consistent in its approach to land disposal practices under the storm water program. Also, EPA is concerned that proximity of the disposal site to actual drilling activity may be variable. For these reasons EPA believes these sites are more accurately described as land application/disposal sites and are subject to storm water permitting under section XI.L. of this permit. Where these sites are indeed proximate to the drilling/production site the disposal activity would be considered a co-located activity and would be subject to the additional requirements under Sector XI.L. of this permit.

Commenters requested that the construction activities associated with oil and gas exploration and production (e.g., construction of access roads, drill pads, mud pits etc.) should be covered under the erosion requirements of this permit and that those activities not require a separate general permit coverage for the construction activities. In response, erosion, sediment, and pollution control should be addressed in all pollution prevention plans for industrial activity. Particularly where the industrial activity has the potential to disturb vegetation or natural runoff patterns and exacerbate erosion. This is true of oil and gas exploration and production activities. Therefore EPA has included additional requirements in the development of pollution prevention plans for these facilities. However, where the construction of a drilling site or any construction of facilities covered by this sector would cause the disturbance or is part of a plan to develop which would disturb five acres or more, then that construction activity itself, becomes an industrial activity which is defined in the regulations (40 CFR 122.26) as having storm water associated with industrial activity which requires separate permitting. EPA has issued a general permit which addresses the runoff from construction activities. This multi-sector general permit, while providing guidance for construction activities under five acres that may occur at a site, does not authorize large scale construction (5 or greater acres) and erosion control. EPA does not believe that it is unnecessarily burdensome for the oil and gas industry to file a construction general permit Notice of Intent and be compliant with the pollution prevention requirements for their sites which will cause the disturbance of five acres or more.

Many commenters expressed concern that it will be very difficult (if not impossible) for oil and gas facilities to do visual monitoring on their remote unmanned sites. They complain that they will not know when its raining and cannot get there in time to get a proper sample. These commenters request that this quarterly visual monitoring be dropped from the multi-sector general permit as a requirement for remote, unmanned oil and gas sites.

In response to the issue of a remote facility being required to comply with the monitoring provisions, EPA realizes that if a facility is inactive and unstaffed it may be difficult for the operator to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examinations.

Commenters asked for a two-tiered storm water pollution prevention plan. One for those facilities with lots of activity and a less burdensome plan (a de minimis plan) for remote facilities that are unmanned and have no activities (e.g., old oil field with a few capped wells on the property).

EPA agrees that a pollution prevention plan for inactive, unmanned sites should not include all of the same elements of a facility with continuous activity and personnel. However, the proposed pollution prevention plan requirements already allow for a plan that addresses potential pollutant sources in a way that is appropriate for each facility. EPA believes that this allows adequate flexibility for operators of unstaffed, inactive sites to address activities such as housekeeping and preventive maintenance in a manner that is appropriate for that site.

Coal Mines and Related Facilities

EPA includes inactive mining areas because significant materials remain on site which can be exposed to storm water and runoff. Two commenters disagreed with the listing of solvents, cleaning agents, contaminated soils and sludges as significant materials found on inactive sites. EPA agrees that these materials are not normally found on inactive sites in significant amounts, especially compared to exposed overburden and refuse piles. However, the Agency wishes to call attention to the possibility of these materials existing at inactive sites where machinery has been intensively used or has been abandoned.

One commenter disagreed with the Agency's conclusion that suspended solids and iron in storm runoff merit attention based on sampling data submitted. The commenter indicated that the sampling could not be presumed representative and that very high suspended solids concentrations are found in runoff from undisturbed areas in many western coal mines. The Agency agrees that the data was provided by only a small percentage of coal mines participating in the group application process and may not be representative. However, the sampling data submitted does give some indication of the relative amounts of pollutants contributed by storm runoff and the Agency wishes to call attention to those pollutants which appear to be more significant.

EPA requested comments on alternative monitoring and reporting requirements which include annual sampling of 20 percent of haul road discharges and analyzing the samples for settleable solids. Four commenters responded to these alternative requirements, all negatively. The primary reason indicated was that the expense and burden of analytical monitoring would not be justified. Most indicated that controls through Best Management Practices (BMPs) and visual examinations would be sufficient. EPA acknowledges these responses and, although it believes there is value in occasionally performing settleable solids evaluations, withdraws the alternative monitoring requirements as an option to the required visual examinations.

Four commenters indicated that the Surface Mining Control and

Reclamation Act (SMCRA) requires sediment and erosion controls in the form of BMPs and this requirement should be sufficient for purposes of the storm water general permit. One of the commenters disagreed with the reference of SMCRA requirements as minimum requirements rather than primary requirements of the pollution prevention plan of the general permit. EPA acknowledges the SMCRA sedimentation and erosion control requirements as the primary requirements for active coal mining-related areas and for inactive areas under SMCRA bond authority. The permit wording is modified to this effect while still indicating that, where determined appropriate for protection of water quality, additional sedimentation and erosion controls may be warranted.

Four commenters felt that the requirement for quarterly sampling and visual examination of representative discharges is burdensome and unnecessary. Reasons cited were that active areas and regulated by SMCRA, haul roads in some areas are remote, and rainfall in some western areas is unpredictable and spotty. Two of these commenters suggested as-needed visual examinations, one suggested annual examinations, and one suggested semi-annual examinations.

Although haul roads are regulated by SMCRA and in some cases may be remote, EPA is concerned that they can be a significant source of stream siltation if sediment and erosion control measures are not adequate to provide necessary protection of stream quality during precipitation events. The Agency believes that a requirement for periodic visual examinations of representative discharges is necessary in order to provide some evaluation of the effectiveness of control measures under actual runoff conditions. EPA also acknowledges that drier western areas would have less frequent incidences of precipitation resulting in runoff. The Agency has reduced the sampling and visual examination requirements from quarterly to semi-annually both for areas having an average annual precipitation of 20 inches or less as well as for inactive areas under SMCRA bond.

One commenter suggested that the requirement to collect samples form discharges resulting from storm events greater than 0.1 inch should be replaced by a requirement to collect samples resulting from any storm event sufficient to produce a visual flow. The Agency is concerned that some very small storm events may not have sufficient potential to significantly disturb and carry off sediment even though the storm events may produce visual flows. To evaluate effectiveness of sediment and erosion control measures under conditions which have potential for stream siltation, sampling discharges resulting from at least a 0.1 inch storm is felt warranted.

Four commenters disagreed with the requirement to sample within a 30-minute period or, where not practical, within a one-hour maximum period after beginning of a discharge resulting from a 0.1 inch storm event. Their concerns were similar in that some mining areas are extensive, rainfall measurements may differ in different parts of a mining area, and one hour is not enough time to respond with sampling. One of the commenters suggested that the sampling be required within one hour or as soon as practical after discharge begins. Another of the commenters suggested that samples be collected within two hours of discharge within normal business hours at 25 percent of a facility's representative outfalls.

The requirement of a 30-minute period (one hour where impractical) for obtaining samples is based on the fact that the highest potential of sediment runoff and resulting stream siltation occurs during early stages of storm periods where loose dirt and other materials are most likely to be swept away. However, the Agency recognizes possible problems at large mining areas for sampling within the required 30-minute to one-hour maximum period after beginning of discharge. The requirements are changed to allow sampling within the first one hour after beginning of discharge or, as soon as practical, but not to exceed a two-hour maximum time period. The Agency believes that this requirement is not burdensome since samples are required only from representative discharges and at frequencies of once per quarter and less in drier areas of the nation. Sampling flexibility is also provided by the number of 0.1 inch or greater precipitation events occurring during the quarterly or semi-annually sampling periods.

One commenter pointed out that the chemical monitoring requirements do not distinguish between active and inactive areas. This commenter and three others opposed monitoring requirements for inactive areas. Two of these commenters suggested, however, that samples be collected if discharges occurred during an inspection. The Agency agrees that mandatory sampling of inactive areas within a specific time period after initiation of a discharge due to a minimum precipitation event may be burdensome and has changed that requirement for operators of inactive, unstaffed facilities.

Three commenters suggest that inspections for inactive sites be specified at once every three years rather than yearly with an allowance under certain conditions of less frequent inspections. EPA does not believe that an across-the-board allowance of one inspection every three years would be adequate. Although no mining-related activity may be taking place at inactive sites, exposure of unreclaimed overburden, refuse or other materials on site is susceptible to erosion and runoff and warrants more frequent inspections of sediment and erosion control measures. Yearly inspections are felt to be appropriate to better assure that control measures have not deteriorated.

Mineral Mining and Processing Sector

The comments on sector J, the mineral mining and processing sector focussed on eligibility under the sector, monitoring requirements, and the pollution prevention plan requirements of the permit. EPA requested comment on whether mine dewatering should be included in the storm water multi-sector permit, and if included, if it should be expanded from just Region VI to all EPA Regions.

EPA has elected to allow currently unpermitted mine dewatering discharges from Construction Sand and Gravel, Industrial Sand, and Crushed Stone mines to be included in this permit, but only for facilities located in EPA Region VI and Arizona. This option does not exist in other EPA regions. Region VI and Arizona have a large number of unpermitted mine dewatering discharges and limited resources necessitating this requirement.

EPA Region VI proposed a limited amount of monitoring. Commenters felt that monitoring should be limited to only those parameters for which there are ELGs. For example, the construction sand and gravel subcategory (SIC Code 1442) only has ELGs for pH.

EPA Region VI has elected to require monitoring for those parameters indicated in the proposed permit. EPA believes that such monitoring is necessary to assess the pollutants levels in the discharge and to assess the effectiveness of the pollution prevention plan.

Commenters felt that industry should not be required to attain discharge levels for solids to a greater degree than that occurring in the natural erosion of the surrounding area or that found in the receiving stream during storm events. To that end, the commenters requested that the industrial facility or the State be

responsible for establishing criteria for TSS limitations. In the proposed storm water discharge permit EPA did not establish any new storm water effluent limitations. Rather, the limits in the proposed permit are existing effluent guidelines under the NPDES program which the discharger should already be meeting. EPA believes that it would be imprudent to allow industry to establish its own TSS limitations. The method which a owner/operator of a facility chooses to reduce storm water discharges is left to the industrial facility.

In addition, EPA wishes to clarify that the "cut off" concentrations are not the same as effluent limitations. If a facility is unable to verify that its storm water discharge is below the cut-off concentration it will be responsible for the continued monitoring of that pollutant in its storm water discharge. Once again, the "cut off" concentrations are not storm water effluent limitations and should not be viewed as limits that must be met.

Commenters felt that while assessment and implementation of needed BMPs may be necessary, written discussion, documentation and scheduling of this procedure should not be a requirement of the storm water pollution prevention plan. According to the commenters, such assessments and decisions should be made prior to the development of the storm water pollution prevention plan. The outcome of those decisions should be made a part of the storm water pollution prevention plan. The commenters felt that the storm water pollution prevention plan represents the avenue for preventing storm water pollution and should not be used as an engineering report for BMP evaluation and selection.

On page 61162 of the November 19, 1993, **Federal Register** EPA identified the focus of storm water pollution prevention plans. The plan has "two major objectives: (1) to identify sources of pollution potentially affecting the quality of storm water discharges associated with industrial activity from the facility and (2) to describe and ensure implementation of practices to minimize and control pollutants in storm water discharges associated with industrial activity. . . . ." EPA further States the storm water pollution prevention plan requirements are intended to facilitate a process whereby the operator of the industrial facility thoroughly evaluates potential pollutant sources at the site and selects and implements appropriate measures designed to prevent or control the discharge of pollutants in storm water runoff. EPA believes it is necessary to include the discussion and documentation of BMP selection in the storm water pollution prevention plan to ensure the plan developed for a facility is operating effectively. The storm water pollution prevention plan process involves four steps including the assessment of potential storm water pollution sources, the selection and implementation of appropriate management practices and controls, and the periodic evaluation of the effectiveness of the plan to prevent storm water contamination. Because of the uniqueness of mine sites, the effectiveness of the BMPs can most effectively be evaluated after their implementation.

Commenters requested that EPA provide for reduced inspection and visual examination requirements for active mineral mining and processing sites given the Agency's findings that these sites have "generally low pollutant values." In response, EPA strongly believes that quarterly visual examinations of storm water discharges is appropriate. Since EPA is not proposing the monitoring of storm water discharges from all subsectors, quarterly visual examinations will allow for feedback to be incorporated into a storm water pollution prevention plan.

Commenters requested that EPA provide for flexible inspection requirements and no monitoring requirements for inactive mineral mining and processing facilities, consistent with the Agency's proposed approach for metal mining sites. In response, EPA will require chemical monitoring of storm water discharges only from active sand and gravel and dimensional stone, crushed stone and non-metallic minerals facilities in this sector. The permit still requires quarterly visual examinations of all storm water discharges from active facilities but this requirement can be waived for inactive, unstaffed facilities.

The proposed mineral mining and processing sector permit required annual inspections for temporarily and permanently inactive sites, but did not allow for reduced inspection requirements for remote and inaccessible sites as EPA proposed for inactive ore mining and coal mining sites. Commenters requested that EPA provide the same relief provision for mineral mining sites as it did for coal and ore mining sites. In response, EPA has revised its inspection requirements by reducing the frequency of the comprehensive site compliance evaluation to annual for all active and inactive mineral mining and processing facilities.

Commenters felt that the requirements and conditions for termination of permit coverage would be unworkable because the "background values" for certain parameters, such as total suspended solids, would be highly variable from outfall to outfall and according to the intensity of storm events. In response, EPA has elected to delete the conditions for termination of coverage. These conditions would have been made available only if the alternative monitoring requirements were imposed in the final permit for this sector.

Hazardous Waste Treatment Storage and Disposal Facilities

One commenter questioned the definition of "treatment, storage, or disposal facility" that will be used relative to the storm water regulations. The storm water regulations published in the November 16, 1990 **Federal Register** apply to "hazardous waste treatment, storage, or disposal facilities that are operating under interim status or a permit under subtitle C of RCRA." The multi-sector permit requirements in this sector, apply to "facilities that treat, store, or dispose of hazardous wastes, including those that are operating under interim status or a permit under subtitle C." The use of the term "including" is not clear. The same commenter requested clarification regarding the inclusion of hazardous waste generators who operate storage areas (with less than 90-day accumulation) or temporary satellite accumulation areas. In addition, another commenter requested clarification on whether facilities regulated under Subpart X of 40 CFR 264 are subject to the storm water provisions.

EPA's intent regarding storm water permit coverage for facilities under this sector, is to include all treatment, storage, or disposal facilities (TSDFs) operating under interim status (40 CFR 265) and those operating under a permit issued pursuant to 40 CFR Parts 264 and 270. This includes facilities regulated under Subpart X of Part 264. It also includes recycling facilities whose operations are subject to regulation under Part 266, to the extent that these activities also are subject to interim status or permitting requirements under Subtitle C of RCRA. Used oil recycling facilities that are subject to regulations under Part 279 are included in Sector N of this permit, rather than Sector K. Sector K does not include generators who temporarily store hazardous waste pursuant to the requirements in 40 CFR 262. The permit language has been clarified to confirm that the multi-sector permit requirements in this sector apply to facilities that treat, store, or dispose

of hazardous wastes and that are operating under interim status or a permit under subtitle C of RCRA.

Several questions were received regarding the parameters included in the monitoring requirements. More specifically, several commenters questioned the inclusion of Total Kjeldahl Nitrogen (TKN) and Chemical Oxygen Demand (COD) in the industry monitoring requirements in Table K–3, and the exclusion of Total Suspended Solids. The U.S. Army questioned whether the data they submitted was incorporated into Table K–1 on conventional pollutants in storm water. The Army also requested that EPA clarify the form of cyanide that is to be monitored, and suggested that a numerical detection limit should be specified for total recoverable magnesium and cyanide, rather than the words "detection limit."

The monitoring parameters and the cut-off concentrations specified by EPA for this sector primarily were based on the parameters previously established for the baseline general permit. These parameters were based on consideration of significant materials and the industrial activities of facilities in this industry. The amount of storm water data specific to TSDFs that EPA was able to evaluate was very limited; any data submitted from military organizations was evaluated separately and not included in Table K–1. Total recoverable cyanide is to be monitored by TSDFs; the commenter is referred to 40 CFR 136 regarding analytical methods to be used in the storm water program. Regarding the cut-off values for total recoverable magnesium and total cyanide, the concentration for magnesium is .0636 mg/l and the concentration of cyanide is .022 mg/l.

Some commenters questioned Region 6's assertion that storm water from hazardous waste Treatment, Storage, and Disposal Facilities (TSDFs) would not be allowed coverage under the Multi-Sector General Permit in Region 6 States (OK, NM TX, and LA). These commenters asked whether Region 6 intended to exclude only commercial facilities or all TSDFs. A few of these commenters noted that the exclusion of all TSDFs would put a financial and resource burden on both the regulated TSDFs and EPA by requiring all facilities to obtain individual permits. One commenter asked whether this applied to closed TSDFs as well.

Region 6 agrees with the commenters that it would be unduly burdensome to both the industry and the Agency to issue individual permits for all TSDFs. At this time, Region 6 would like to clarify their intent and indicate which TSD facilities would be allowed to be covered by a general permit; and those the Region specifically believe must obtain individual permits. Region 6 believes that General Permit coverage is appropriate for TSDFs that are self generating and are probably covered by the Multi-Sector General Permit via some other (primary) industrial sector. These facilities would be required to comply with the specific requirements in the Multi-Sector General Permit for their TSDF areas. The Region believes that the Multi-Sector General Permit requirements and monitoring for these facilities are appropriate. This would also apply to facilities that only store hazardous waste and do not treat or dispose of the hazardous materials. Also, the Region believes that disposal facilities that have been properly closed and capped, and have no significant materials exposed to storm water should not require permits in accordance with the description of storm water associated with industrial activity [40 CFR 122.26 (b)(14)].

However, it is Region 6's intent to issue individual permits for all commercial Treatment and Disposal Facilities. Those facilities would only be those which take commercially produced hazardous wastes (not their own) and treat or dispose of those materials. The Region has few of these, and the burden on the Regional permitting staff is small. Only six commercial facilities applied for coverage through the group application process. To date, Region 6 has required individual permit applications from all such facilities; and permits have included specific technology and water quality based limits. To allow existing facilities to obtain permit coverage under the Multi-Sector General Permit would be backsliding, and not allowable under part 402(o) of the CWA. To allow new facilities with permit conditions that are less stringent would not be consistent and would provide an economic advantage to new facilities over existing ones. In addition, Region 6 believes that more careful compliance tracking is warranted for facilities that treat and dispose of hazardous waste as a commercial operation. The Region does not believe that this would be burdensome on the few facilities that fall into this "commercial" category. These are large facilities that treat and dispose of large quantities of hazardous wastes as a service to generators. Because individual permits for these commercial hazardous waste treatment and disposal facilities has always been a priority, the Region believes it is consistent and appropriate to require all such facilities to apply for individual NPDES permits for their storm water discharges. This distinction does not apply to facilities that take and dispose of household (residentially produced) hazardous wastes. Facilities that accept, for disposal or treatment, wastes generated by private individuals at their residence are not required to submit individual applications unless they are a commercial facility for the treatment or disposal of hazardous wastes. Region 6 does not wish to discourage benevolent industry operators from offering this service and thereby discourage the proper disposal of household hazardous wastes by limiting their eligibility under this general permit.

Landfills and Land Application Sites

One commenter stated that the permit should provide reduced monitoring and pollution prevention plan requirements for landfills and land application sites that receive a homogenous waste stream. EPA agrees with the commenter that there are a wide range of industrial landfill and land application types depending on the nature of the waste received/managed. Even where the same waste categories are received by two landfills (or land application sites), waste characteristics may be highly source-specific. For example, ash composition varies significantly depending upon the fuel type/source and the combustion process. Because of this diversity and the limited extent of monitoring data submitted with the group applications, the Agency has established broad monitoring requirements for this sector. Further, the Agency believes that quarterly monitoring during the second year of the permit is necessary to fully characterize storm water discharges from individual sites. The Agency also notes that Section 5.a.(3).(a) of the permit waives monitoring requirements during the fourth year on a pollutant-by-pollutant basis where sampling shows concentrations below the threshold levels.

Several commenters expressed concern that a wide variety of pollutants are listed in the monitoring requirements of the proposed permit. Potential source of pollutants and pollutant types vary significantly from landfill to landfill. EPA concurs with the commenter that there are a wide range of industrial landfill types depending on the nature of the waste received/managed. To address the commenter's concern, the Agency has developed the alternative certification described in Section L.5.a.(5) of the permit. This provision will allow

permittees to exercise a waiver of the monitoring if they can certify that storm water will not be exposed to potential sources of pollution.

The Agency believes that permittees should implement BMPs to minimize erosion at sites (i.e., to prevent/minimize pollutant loadings to storm water). This includes stabilizing daily cover piles, wherever practicable, regardless of their locations. These measures will reduce the need to rely on other controls to manage/treat storm water runoff after contamination has occurred.

One commenter questioned the analytical monitoring requirements proposed for landfills closed prior to the effective date of 40 CFR 258.60. The commenter felt that all landfills closed in accordance with State or local regulations should be exempted from analytical monitoring. In response, the Agency believes that prior to the effective date of 40 CFR 258.60 there was significant variability in State MSWLF closure requirements. The closure provisions of State industrial landfill regulations are similarly diverse. Because of this variability, the Agency cannot be certain that landfill areas closed under State programs do not have the potential to contribute pollutants to storm water discharges (unless the requirements are equivalent to or more stringent than 40 CFR 258.60). Therefore, the Agency does not believe it is unreasonable to require monitoring for such sites. For landfills that are closed according to State or local requirements that are equal to, or more stringent than 40 CFR 258.60, the permit includes the "alternative certification" and "low concentration" waivers which should provide a means for such a landfill to forego the need to monitor.

Several commenters expressed concern that the frequency of the inspections required for storm water pollution prevention plan are excessive and impose an excessive burden upon facility operators. The Agency appreciates the commenters feedback on the inspection frequency and recognizes the potential difficulties that may arise from requiring inspections within 24 hours of a storm event. Therefore, the final permit has been revised to only include weekly inspections. The Agency believes that this frequency is appropriate for landfills and land application sites because of the nature of the BMPs typically used at these facilities. Erosion and sediment control measures often require frequent upkeep and maintenance to ensure proper operation.

One commenter requested a reduction in the monitoring requirements for facilities located in cold climates due to difficulty in collecting samples during winter periods. The Agency does not believe that monitoring requirements should be adjusted for landfills solely because they are located in cold climates. The permit provides a temporary exclusion from monitoring requirements during a quarter if sampling is unfeasible due to adverse conditions (including weather) and this provision should account for difficulties in conducting sampling due to climate. Under this exclusion, permittees are, however, required to collect two samples during the next quarter to make up for the missed sampling requirement.

Several commenters stated that the monthly visual examination requirements for this sector were excessive and burdensome. In response to these comments, today's permit requires only quarterly visual examination of storm water discharges. For active and staffed landfills and land application sites, the Agency does not believe that it is unreasonable to require sampling/visual examinations once each quarter within the first hour a storm event.

Auto Salvage Yards

A few commenters indicated that storm water runoff from automobile salvage yards is often contaminated with spilled residues of engine and transmission fluids, and battery acid saturated with lead. The Agency agrees that automobile salvage yard facilities may have many potential sources of storm water pollutants. Therefore, today's final permit incorporates permit conditions to address these potential sources. Such conditions include development of a pollution prevention plan, which includes the implementation of BMPs, regularly scheduled inspections, and visual and analytical monitoring to help assess the effectiveness of the pollution prevention plan and to identify potential problems with the plan that would lead to making plan revisions and incorporating additional control measures.

A few commenters stated that some of the conditions under the proposed multi-sector permit for automobile salvage yards are more stringent than those under the baseline general permit. In response, EPA wants to clarify that certain information, not available at the time of finalization of the baseline general permit, such as the group application information and sampling data, was used extensively in the development of the conditions in today's final permit. This information and data has identified pollutants of concern, the concentrations of these pollutants, and the industrial activities that are conducted on-site that generate these pollutants. The Agency has developed appropriate conditions in this final permit to address these storm water discharges.

Several commenters feel that the proposed semi-annual employee training requirement for facilities in the automobile salvage yard sector is too burdensome, especially considering the annual training required for most other sectors. Today's final permit requires facilities themselves to identify periodic dates for employee training in the storm water pollution prevention plan. The focus of the employee training required under the multi-sector permit is on informing personnel of the components and goals of the storm water pollution prevention plan (storm water pollution prevention plan). This includes familiarizing employees with their responsibilities under this plan. The Agency believes that periodic training programs are needed to keep employees up-to-date with the storm water pollution prevention plan but agrees that semi-annual requirements may be too burdensome for some facilities. EPA leaves the decision as to the frequency of employee training up to the facility operator because site-specific circumstances will call for different training frequencies and the facility operator is in the best position to make that decision. The frequency of training for auto salvage facilities can therefore be determined by each facility operator at the time they develop their pollution prevention plans. If additional training is necessary than what is originally identified, then the plan can be modified by the operator and the training frequency increased.

A few commenters requested that the frequency of the visual monitoring required for facilities in the automobile salvage yard sector be reduced from monthly to quarterly. In response to these comments and other comments on this issue, and given further consideration of climatic variations and the other types of inspections required under this sector, today's final permit requires facilities to conduct only quarterly visual monitoring. Visual monitoring will allow facilities to detect potential problems and evaluate the effectiveness of the pollution prevention plan more frequently than just through chemical sampling.

Several commenters indicated that existing BMPs at their facilities are sufficient or that specific BMPs listed in the proposed fact sheet are not appropriate. EPA wants to clarify that

facilities with BMPs already in place are still required to develop a pollution prevention plan. Existing BMPs may, however, be used as part of the pollution prevention plan, if it is determined that the BMPs adequately address the potential pollutant sources at the site. The Agency notes that Table M–3 of the proposed fact sheet, Storm Water BMPs for Automobile Salvage Yards, is a list of BMPs to be considered when developing the pollution prevention plan. These BMPs may not, however, be appropriate under all conditions, nor may this list be all inclusive. Permittees should use this table as guidance when considering which BMPs to implement at their site.

Numerous commenters indicated that the costs for automobile salvage yard facilities to comply with the proposed multi-sector permit will be too burdensome. Several comments stated that the cost would exceed $15,000 per facility. Costs, including the time and money necessary to meet the proposed documentation and monitoring requirements, may force some facilities out of business. Several comments stated that smaller facilities would have to hire a professional engineering firm to develop the pollution prevention plan and an additional employee to perform the recordkeeping and monitoring requirements. The cost estimates referred to in these comments are based on the requirements in the proposed multi-sector permit. The Agency notes that several of these proposed requirements have been reduced in today's final permit and that these reductions will significantly reduce the cost of compliance. The reductions include requiring analytical monitoring only for certain facilities, a pollutant-by-pollutant alternative certification for those facilities that are subject to analytical monitoring, a decrease in the minimum frequency of visual examinations of storm water discharges from monthly to quarterly, and a reduction in the minimum employee training requirements. EPA believes it is feasible, even for small businesses, to fulfill the requirements of today's permit without hiring outside help. The Agency has provided guidance, such as the manual; "Storm Water Management for Industrial Activities; Developing Pollution Prevention Plans and Best Management Practices" to assist permittees with the development and implementation of pollution prevention plans.

A few commenters stated that the comprehensive site compliance evaluation for automobile salvage yard facilities should only be required once a year, not twice as was proposed in the multi-sector permit. The Agency agrees with these commenters and notes that today's final permit has been revised to require a comprehensive site compliance evaluation at a minimum of once per year in this and all other sectors.

A few commenters stated that the inspection requirements for automobile salvage yard facilities are too burdensome. In particular, commenters stated that the requirement to implement any changes in measures and controls as a result of these inspections within 12 weeks should be changed. Although 12 weeks is enough time to make management procedural changes, commenters felt it is not sufficient to implement structural changes to the facility. Commenters requested a 1 year time frame to implement such changes.

The Agency believes that the majority of the changes required as a result of the quarterly inspections will be procedural or programmatic in nature. Therefore, a 12 week time-frame should be sufficient for the implementation of the majority of the changes to the plan under this section. In the event that a permittee believes structural changes to the facility are necessary, the permittee should contact their EPA permitting authority and discuss a possible schedule for implementing the changes. Changes requiring construction are allowed additional time for implementation under the terms of the permit.

Several commenters stated that the quarterly inspections for leaks from vehicles and outdoor storage areas are too burdensome. Comprehensive site compliance evaluations and the requirement to remove fluids from vehicles when they arrive on-site, or as soon as feasible thereafter, make quarterly inspections unnecessary. One commenter questioned why quarterly inspections for leaks from vehicles is necessary if fluids must be removed from vehicles when they arrive on-site, or as soon as feasible thereafter. The Agency notes that there are certain circumstances in which fluids cannot be removed from vehicles immediately. Therefore, quarterly inspections should include checking vehicles which still have fluids for leaks. Vehicles that have been completely drained of fluids are not of concern for this inspection. EPA believes that the quarterly inspections required under the proposed permit target areas with a significant potential to contaminate storm water, such as outdoor storage of containers. Therefore, today's final permit includes quarterly inspection requirements.

A few commenters stated that EPA should allow facilities in the Automobile Salvage Yard sector additional time to construct structures needed to control contamination of storm water runoff. One suggestion was to allow these facilities 5 years to construct storm water pollution control structures, as long as the construction design and schedule is developed by a professional engineer (PE) and is 50% complete within 24 months, 75% complete within 36 months, and 100% complete within 60 months. Compliance deadlines under the multi-sector permit allow facilities up to 3 years from the effective date of the permit to construct structural BMPs that are called for in the pollution prevention plan. The Agency believes that in most cases 3 years is sufficient time to complete construction of structural BMPs. Permittees that feel they cannot complete construction within this specified time period should contact the applicable EPA Regional office.

Several commenters stated that the proposed recordkeeping requirements would be the most expensive segment for facilities subject to the Automobile Salvage Yard sector. Facilities should not be required to document the volume of fluids removed from vehicles as they are received since transporters or recyclers document the total volume of fluids removed from the site when collection is made for recyling. Commenters also indicated that reports should be prepared at the time the materials are sold or recycled, and not necessarily every month. In response, EPA has deleted these requirements from the final permit since many permittee already track such information for other purposes.

Scrap Recycling and Waste Recycling Industries

A number of commenters requested clarification on the prohibition of the discharge of washwater from tipping floor areas. To clarify, the final permit specifically prohibits the discharged of washwater from tipping floor areas to any part of a storm sewer system. This is considered a process wastewater discharge which is not authorized by this storm water permit. This permit also does not authorize discharges to the sanitary sewer system.

A substantial number of commenters expressed concerns regarding the appropriateness and costs associated with requiring the usage of structural erosion and sediment controls at scrap recycling facilities. Commenters frequently stated that such a requirement was inappropriate at this stage of the permitting process and that scrap recycling facilities should be

provided the flexibility to implement a range of source control measures. Commenters frequently stated that their facilities did not have the room for structural controls such as retention ponds and sediment basins. It was further suggested that the results of monitoring data, particularly for total suspended solids (TSS), warranted a more flexible approach to the use of erosion and sediment control measures.

EPA believes that erosion and sediment controls are necessary at scrap recycling facilities due to the large amount of facility property (used for the industrial activities) which is unstabilized exposed soil and which receives large amounts of vehicular traffic similar to a construction site. For these areas, there are many types of erosion and sediment control measures that are appropriate for a recycling facility. A review of the group application information indicates that both structural and non-structural erosion & sediment control practices have been employed at scrap recycling facilities. In addition, scrap recycling facilities also commonly use spray water as a means of dust control. Regardless, EPA believes that these areas are appropriately classified as engaged in industrial activity and require storm water BMPs for controlling pollutant sources. Analysis of the part II sampling data indicates that approximately 22% of the grab samples for TSS were above 500 mg/l and, similarly for approximately 20% of the composite samples. EPA considers the use of erosion and sediment source control measures to reduce sediment loadings to be appropriate for scrap recycling facilities.

The permit does provide the flexibility for operators to select a mix of erosion and sediment control practices to reduce suspended sediment loadings. However, EPA wishes to clarify an issue with regard to requirements for the construction of permanent erosion and sediment controls such as retention ponds and sediment basins. EPA expects that these types of controls, or their equivalent, would only be constructed after the operator has had the opportunity to employ a full range of non-structural type source control measures and where substantial settleable and/or suspended solids loadings still persist. EPA is aware that site-specific conditions could exist which would preclude the siting of a structural control, i.e., a retention pond. Space restrictions caused by permanent buildings, permanently-fixed processing equipment, other semi-permanent or permanent obstructions, and/or restrictions posed by property boundaries would be considered examples where the operator could make a determination that construction of a structural control (i.e., a retention pond or its equivalent) is not a viable option. If such a determination is made by the facility operator, the operator would be required to annotate the plan accordingly. The operator would then update the plan to indicate what modified or additional or BMPs will be implemented to reduce suspended solids loadings.

Many commenters interpreted proposed permit conditions as mandating the use of permanent or semi-permanent covers over stockpiled materials. EPA is not mandating the use of covers over stockpiled materials. Because of the substantial quantities of stockpiled materials typically located at scrap recycling facilities, EPA believes that a requirement to mandate the use of covers is not appropriate and most often would be impracticable. Therefore, the decision whether to construct or install covers is left to the discretion of the facility operator. The proposed permit provides that the operator "shall consider" the use of these types of BMPs, however, the decision whether to use permanent or semi-permanent covers is left to the operator's discretion.

EPA is concerned with controlling storm water contamination from certain types of recyclable materials, specifically significant residual fluids, accumulated particulate matter and shredder fluff that could be exposed to runoff in the absence of any physical means of minimizing contact. Consequently, EPA expects that the plan will include measures to minimize exposure of these materials to surface runoff, where appropriate.

A significant number of commenters expressed concerns about proposed permit requirements that would eliminate exposure of turnings to precipitation or runoff. EPA wishes to clarify that it is primarily concerned with turnings that are produced from certain types of machine tool operations (e.g., milling machines, machine tool centers, and lathes) and which have come in contact with cutting fluids. Because of the potential for significant quantities of residual fluids associated with turnings, EPA believes they pose a substantial risk of contaminating surface runoff. EPA notes that this particular sub-section of the permit does not apply to cuttings or turnings that have not been exposed to cutting fluids.

In the draft permit, EPA required that "all turnings and cuttings shall be handled in such a manner as to prevent exposure to either precipitation or storm water runoff. . . ." Based on information provided by the industry, EPA believes that the requirement to prevent all exposure of all turning and cuttings would pose an undue burden on the scrap recycling industry. Such information demonstrated that, in most cases, turnings piles can be very large in size and are mostly stored outdoors due to size. Therefore, in the revised permit EPA is requiring scrap recycling facilities to select an appropriate BMP from either two suggested options, or employ an equivalent measure, to help minimize exposure. These options were developed based on input of current practices used by the scrap recycling industry.

The final permit identifies the discharge of fluids from containment areas, in the absence of a storm event, as a non-storm water discharge prohibited under this permit. The operator would be required to obtain a separate NPDES permit for this non-storm water discharge. Discharges from turnings containment areas to the sanitary sewer system are not covered by this permit. The operator must seek the necessary approval(s), if any, from the appropriate local pretreatment authority.

A substantial number of scrap recycling facilities requested clarification on the prohibition of non-storm water discharges from oil/water separators. EPA clarifies that in the absence of a storm event, discharges from oil/water separators to a storm sewer system are consider non-storm water discharges, which are not covered under this permit. Discharges from oil/water separators that occur as a consequence of a storm event, either a current event or past event, are permitted provided that the oil/water separator is properly maintained on a regularly scheduled basis as established in the plan.

Commenters also wanted clarification on the liquids draining requirements as they applied to "white goods," i.e., appliances. EPA clarifies that it is not requiring scrap recycling facilities to drain fluids from appliances or "white goods," oil-filled shock absorbers, and other permanently sealed containers with very small amounts of fluids, though the permittee may elect to do so.

A number of commenters requested clarification on the applicability of other sections of the permit where co-located facilities exist, e.g., equipment and vehicle maintenance in section VIII-P. Section VIII.N.1 specifically provides that scrap and waste recycling facilities that have additional facilities which satisfy the definition of an industrial activity covered by another section of

this permit (e.g., equipment and vehicle maintenance facilities), must comply with the pollution prevention plan and monitoring requirements of that other section. The purpose of this requirement is to ensure that the pollution prevention plan and monitoring requirements appropriately address all aspects of regulated industrial activity that occur at a specific facility. For more explanation of this requirement, see the Co-located activities section of this summary.

Another commenter noted that differences exist between the list of BMPs identified in Table N–11 of the factsheet and section VIII.P of the permit. BMPs identified in Table N–11 were not intended to be all inclusive; rather the table identifies optional and alternative BMPs that may be used for vehicle and equipment maintenance. If scrap and waste recycling facilities have co-located facilities that meet the definition of industrial activity covered under section VIII.P, the operator is required to comply with the plan requirements for that section, including any specifically identified BMPs.

A number of commenters argued that EPA should drop the analytical monitoring requirements since many BMPs would be implemented thereby obviating the need for monitoring. In addition, these commenters said it would be more beneficial to target resources towards BMP implementation rather than to put resources towards monitoring. EPA does not agree that the implementation of BMPs at scrap recycling facilities should automatically eliminate the need to conduct monitoring. EPA is requiring monitoring primarily for purposes of demonstrating the effectiveness and adequacy of the pollution prevention plan as implemented over the term of the permit. EPA believes that the transient nature of activities at scrap recycling facilities and the results of the group application sampling effort clearly justify analytical monitoring during the permit term.

Some commenters questioned why EPA proposed to require monitoring for aluminum and iron at scrap recycles. Only 5 scrap recycling facilities sampled for these pollutants during the group application process. The limited sampling information provided by scrap recycling facilities for iron and aluminum, however, suggests that these facilities may be significant sources of iron and aluminum in storm water runoff. Given the volumes of ferrous and non-ferrous materials commonly handled at scrap recycling facilities, EPA believes that it is reasonable to monitor for these pollutants to determine if they are present and if so to provide information to the facility operator to ensure the pollution prevention plan is effective at controlling these pollutants. Therefore, EPA believes that additional data on these two pollutant parameters is needed for purposes of better characterizing pollutant sources that may be present so that pollution prevention plans may be more appropriately designed.

A number of commenters requested clarification on the use of the term "battery reclaimers" as it applies to scrap recycling and waste recycling industries. EPA agrees that scrap and waste recycling facilities which only collect and temporarily store used lead-acid batteries are not classified as battery reclaimers as described by 40 CFR Part 266. Battery reclaimers engage in the practice of breaking-up used lead-acid batteries for purposes of reclaiming the lead contained within them. During the group application process, EPA did not receive any group applications composed of battery reclaimers. Therefore, facilities which engage in the reclaiming of used, lead-acid batteries are not eligible for coverage under this permit.

EPA has reviewed a cost study provided by industry and concludes that a substantial portion of the costs arose as a consequence of unclear permit language or activities that are already substantively employed at scrap recycling facilities (i.e., not necessarily in response to the NPDES storm water program). EPA believes that the cost estimates provided in the fact sheet to the proposed permit are reasonably accurate and representative of the actual range of costs most facilities will experience to comply with the requirements of this permit (see cost of compliance discussion in this summary).

EPA is not requiring scrap recycling facilities to construct permanent or semi-permanent covers over stockpiled materials, therefore, the estimated capital costs would be substantively reduced over those calculated by industry. In addition, EPA observed during a site visit that a scrap facility with a shredder already had at least one roll-off box for collecting shredder fluff. Given the substantial volume of shredder fluff produced annually, some means of collecting and disposing of shredder fluff already exists at shredder facilities. Therefore, EPA does not agree that scrap recycling facilities are facing the additional capital expenses as reported in the industry cost report.

With regard to retention ponds, the final permit provides additional clarifying language that states that the operator is expected to employ a full range of non-structural erosion and sediment control measures to reduce sediment loadings. If substantial loadings persist after employing a full array of non-structural measures, the operator could be expected to construct a retention pond or its equivalent. However, the operator would first be expected to identify what additional measures might be taken to reduce sediment loadings before constructing a retention pond. In addition, the final permit allows the operator to make a determination that insufficient area is available to construct a pond or its equivalent. These additional provisions in the final permit are expected to dramatically reduce the likelihood that many scrap recycling facilities will be required to construct retention ponds.

Discussions with the scrap recycling industry indicate that facilities that receive substantial quantities of turnings have established appropriate containment areas with suitable berming and drainage collection (including the use of sumps and/or oil/water separators). In addition, measures to properly dispose or recycle substantial quantities of residual fluids are already in practice in response to other environmental and safety regulations at the Federal, State, and local levels. Consequently, EPA does not agree that the estimated annual operation and maintenance cost of $13,000 can be exclusively attributed to the NPDES storm water program.

The scrap recycling industry cost study estimates that berms around stockpile as will be replaced quarterly at an annual cost of $55,000. EPA has a number of concerns with regard to this estimate. The use of berms around certain stockpile areas was proposed as a BMP alternative by industry and many of its members. In addition, group applications cited the use of berms as a frequently employed best management practice. If such a cost estimate were accurate, it is unrealistic to expect that a scrap recycling facility would incur such a cost given the industry's expressed concerns about extreme competitive pressures. It is more likely that such a BMP would be considered impractical or economically infeasible by the facility operator and other BMPs would be chosen in preference.

EPA also wishes to respond to a number of other costs elements reported in the industry study. The study also identifies additional costs in response to the draft permit:

- Encourage suppliers to drain fluids.
- Inbound scrap lead acid battery control program.

• Inbound material inspection program.
• Segregate, handle and store used batteries.
• Periodic inspections of processing equipment.
• Employee and supplier training.

In discussions with industry representatives and scrap recycling facility operators during site visits, it was observed or noted that many of these practices are already commonly employed by the scrap recycling industry. In particular, manufacturer specifications on what is acceptable for scrap often dictates what materials are or are not accepted. In addition, frequent training of employees and buyers of scrap is necessary in order to ensure that only acceptable materials are received. Concerns over potential liability of accepting undetected hazardous waste within scrap necessitated the need for the industry to provide adequate training of both employees and its major suppliers. Therefore, EPA does not believe that the costs associated with these activities are overly burdensome or that they can be exclusively attributed to the NPDES storm water program.

A number of commenters expressed concerns about the appropriateness of requiring WET testing as an alternative monitoring requirement. EPA has removed any requirements to conduct whole effluent toxicity testing from this section of the permit. A substantial number of comments were received by the industry with regard to other monitoring requirements during the permit term. To a large extent, commenters disagreed that monitoring during the permit term would provide the necessary information to support EPA's goal of assessing the effectiveness of pollution prevention plans. Many commenters specifically stated that EPA's use of benchmarks was not appropriate and that, in effect, the Agency was establishing numeric effluent limits for the scrap recycling industry. Commenters added that the site-to-site and storm-to-storm variability of the data will prevent EPA from determining the effectiveness of BMPs. In sum, the excessive cost of monitoring, the lack of technical and regulatory expertise, excessive administrative burden, and the need to hire consulting engineers were cited as justified reasons for eliminating monitoring requirements.

EPA's analysis of all sampling data provided by group applicants within this sector revealed that the scrap recycling industry consistently exhibited high concentrations of metals, particularly copper, lead, and zinc. Moreover, sampling data also revealed that, in general, scrap recycling facilities were a consistent source of a wide diversity of conventional and toxic pollutants. EPA believes that the range of concentration values reported for many pollutants adequately supports the inclusion of monitoring for these pollutants in the permit.

The group application sampling was intended to demonstrate to operators of facilities and to EPA the types of pollutants typically found in industrial storm water discharges and to give, to some extent, a measure of the magnitude of those pollutants. It was not expected that sampling results would be used as a basis of establishing numeric effluent limits. The purpose of monitoring in today's final permit is to substantiate, over the long term, that scrap recycling facilities are employing the full range of BMPs and to judge the overall effectiveness of pollution prevention plan measures in controlling the pollutants of concern.

A number of commenters requested that EPA subdivide this sector to distinguish between scrap recycling facilities and municipal recycling facilities (MRF) that recycle paper, newspaper, glass, plastic containers, cardboard, and aluminum cans received primarily from residential and commercial sources. Commenters argued that MRFs are not the same as scrap recycling facilities, particularly with regard to the degree of exposure of significant materials. Commenters requested that EPA clarify its position with regard to BMP and monitoring requirements with regard to MRFs. Commenters also requested that EPA clarify any distinctions between MRFs that receive source-separated recyclable materials only (so called clean MRFs) versus those that do not receive source separated materials (so called dirty MRFs).

Based on information and data submitted in two group applications, EPA has created a separate sub-sector for recycling facilities that receive only recyclable materials (source-separated facilities) primarily from commercial and residential sources. This sub-sector excludes scrap recycling facilities and dirty MRFs. EPA concludes that source-separated recycling facilities are different in many respects from scrap and waste recycling facilities and from dirty MRFs. Source separated recycling facilities do not produce the volume of non-recyclable wastes that scrap recycling and waste recycling and dirty MRF facilities do. In addition, recycling facilities do not have heavy industrial processing equipment such as shearers or shredders.

EPA observed during one site visit to a MRF that the majority of storage occurred indoors and there were few outdoor processing operations. Outdoor storage consisted only of processed materials, e.g., compacted bundles of aluminum cans and bins containing glass cullet. Outdoor storage of processed materials tended to be for only short periods of time as compared to scrap recycling facilities where stockpiled materials may be exposed for long periods of time.

EPA also believes that recycling facilities that reject non-recyclable waste materials at the source, e.g., curb-side, also distinguishes them from scrap recycling and waste recycling facilities. This practice is an effective means of substantially reducing the potential that household hazardous wastes will be accepted. Frequent training of pickup drivers is also common to ensure that nonrecyclable materials such as paints, fluorescent tubes, used oil, and pesticides and are not accepted. EPA believes that separate pollution prevention plan and monitoring requirements are appropriate for this sub-group and has revised the final permit to reflect this.

EPA believes that municipal recycling facilities (MRFs) that receive only source-separated recyclable materials (e.g., glass, plastic, aluminum cans, paper, newspaper, tin cans, magazines, and alike) should not have the same monitoring requirements as those for scrap recycling facilities. MRFs are characterized as facilities that receive recyclable materials primarily from commercial and residential sources. In addition, MRF processing operations frequently occur indoors. EPA conducted a subsector review of sampling data submitted by four groups. These groups consist of facilities which receive source-separated recyclable wastes. EPA's analysis of median concentration data for pollutants sampled indicated that all pollutants were below the benchmarks.

EPA believes that given the nature of operations at these facilities and the implementation of BMPs, that these facilities should not be required to conduct storm water monitoring. EPA is also establishing separate pollution prevention plan requirements for recycling facilities that receive only source-separated, recyclable materials.

Steam Electric Generating Facilities

Several comments were received concerning the EPA's proposed monitoring regimen on which sector monitoring frequencies were based upon "benchmark" concentrations of pollutants, a representation of

monitoring data from NURP and the Gold Book.

After reviewing the comments and data, EPA revised the "benchmark" values and the methodology used to determine which industries will monitor for their storm water. Based upon the revised methodology, steam electric facilities are required to conduct chemical monitoring of their storm water discharges for total recoverable iron. Monitoring discharges from coal piles is still required if coal is utilized or stored at the facility in conformance with 40 CFR 423.

Several commenters complained that there would be exorbitant additional costs involved with the "benchmark" monitoring requirements and/or BMP's required by and peculiar to the Multi-Sector permit. Several commenters requested justification for those requirements which they felt were unjustified and more stringent than the requirements of the general baseline permit.

Since the Multi-Sector permit was created as a result of the group application process using data supplied by and specific to each industry sector, the permit requirements have been tailored to the unique needs of each industry sector. For this reason, EPA believes that industries that obtain coverage under the Multi-Sector permit and comply with the terms of that permit will reduce pollutant discharges to waters of the United States to a greater degree than would occur under coverage of the baseline general permit. However, coverage is available to those industries under either permit upon the submission of the appropriate notice of intent (NOI). All the BMPs mentioned in the Multi-Sector permit are suggestions utilized to illustrate the intent of the permit and illustrate a method by which compliance can be achieved. Other equivalent BMPs may be implemented, at the discretion of the permittee, to attain those illustrated results. EPA realizes that the permittee is most familiar with the particular industrial site and is best qualified to determine which BMPs are equal to, or perhaps more effective in satisfying the intent of the permit. EPA encourages the use of these other BMPs or practices which attain or improve upon the Multi-Sector permit goals, especially those which are easier or less costly to implement.

Sector O of the Multi-Sector permit focuses attention on both coal pile runoff and any other storm water discharge associated with industrial activity at steam electric power generating facilities. Coal pile runoff has, however, been identified as a particularly serious threat to water quality and therefore the EPA has developed effluent guidelines (40 CFR 423) to regulate its discharge. The requirements for coal pile runoff from the guidelines have been incorporated into the multi-sector general permit.

Storm water discharges from wood-burning power plants are not covered under the Multi-Sector permit since no applications were received from wood-burning power plants under the group permit application process. EPA developed the Multi-Sector permit in response to only those facilities who applied for group permit coverage. Wood-burning plants may obtain coverage under the baseline general permit or an individual storm water permit.

For the sake of consistency with the other sectors in the multi-sector permit and to eliminate the duplication of regulation, EPA has removed reference to the requirements for permit coverage for industrial activities associated with construction. It must be noted, however, that a permit is required for storm water discharges from construction activities which additively disturb five or more acres, and such coverage is available through EPA's general permit for storm water discharges associated with construction activity.

Several comments dealt with the topic of monthly visual examination and documentation of storm water discharges as being burdensome, unjustified, and potentially impossible to comply with when dealing with the random occurrences of storm events and the numbers of outfalls to be sampled. EPA has relaxed the required frequency of visual examinations from a monthly to a quarterly basis. EPA has included the requirement for only limited analytical monitoring of storm water discharges from Sector O facilities based upon "benchmark" values. Annual compliance monitoring/reporting of runoff from coal storage areas/piles is also required as specified in 40 CFR 423. To aid in the reduction of resources necessary to comply with the visual sampling requirements for facilities with several outfalls, the permittee, if practicable, can combine and/or eliminate outfalls, apply the representative discharge provisions of VI.C.4. of the permit or utilize automatic samplers.

Motor Freight, Rail, and Passenger Transportation, Petroleum Bulk Oil Stations, and the U.S. Postal Service

There were a number of comments received regarding the requirements for the sector P, the ground transportation sector. The comments focused on grouping of facility types in the sector, eligibility under the sector, and the storm water pollution prevention plan requirements.

Several commenters, including members of the passenger bus, tank truck carrier, motor carrier, and warehouse industries, were concerned with the grouping of a range of transportation facilities in the ground transportation sector. Concern was particularly expressed regarding the "long-term implications" of this "umbrella" permitting practice. In response, EPA has retained the original grouping of transportation facilities as presented in the proposed permit. Although the gross operations of these different types of facilities may differ, EPA found that the vehicle maintenance and repair activities are remarkably similar and pose equally similar threats to storm water pollution. Further, EPA found that comparable best management practices were used at these varying facilities. In terms of the long term effect of this grouping, EPA assures the commenters any additional permitting efforts will revisit the appropriateness of sector groupings based upon information as it becomes available.

One commenter expressed particular concern about the inclusion of warehouses in the land transportation sector. EPA grouped regulated warehouse facilities in the land transportation sector because, when such facilities have exposure to storm water, it is often due to exposure of vehicle maintenance shops and equipment cleaning operations. EPA reminds the commenter that facilities are required to meet the permit conditions for all industrial activities (and hence sectors) which they may have onsite.

Several commenters, including members of the passenger bus, tank truck carrier, and warehouse industries, requested that EPA clarify its position regarding vehicle wash waters and its definition of "commingling" of storm water and vehicle wash waters. Vehicle wash waters, water discharged from a vehicle washing activity, are required to be permitted separately from the storm water discharges from such areas. Although most facilities design such wash areas to drain most, if not all, wash waters during the washing activity, some facilities may have stagnant pools of washwater that do not drain or discharge. If a storm event results in the discharge of both the remaining wash waters and storm water, the storm water permit would only cover the storm water discharges and not commingled wastes. Similarly, if vehicle washing activities are performed during a storm event or immediately

preceding an event, the storm water permit only covers the portion of the discharge originating from the storm event. If, however, the washing activity is performed prior to a storm event and the washwater that is not immediately discharged is allowed to evaporate prior to being discharged with storm water, the storm water discharge that is now contaminated with the dry residue from the washwater is entirely covered by the storm water permit. Such residues would be expected to be specifically addressed in the facility's storm water pollution prevention plan.

Another commenter requested that vehicle wash waters from land-based transportation facilities be allowed to be discharged under this permit provided appropriate pollution prevention measures have been implemented to ensure that such discharges do not contain a visible sheen, detergents, or solids as was proposed for water-based transportation facilities. EPA disagrees that such discharges should be allowed. In the final permit, vehicle washwaters are not allowed from water-based transportation facilities. Such discharges must be permitted separately.

Many commenters, including members of the passenger bus, tank truck carrier, petroleum marketers, motor carrier, and warehouse industries, requested that employee training only be required to be conducted on an annual basis. In response, EPA has reduced the *required* frequency of employeetraining to once per calendar year. However, EPA would like to emphasize that more frequent training, perhaps on an informal basis, is encouraged and will most likely result in better implementation of the storm water pollution prevention plan.

Two commenters also expressed concern that the training requirements apply to all employees regardless of their effect on storm water pollution prevention and control. In response, EPA would like to clarify that only those employees that play a role in the industrial activities at the site must be trained. Because job descriptions differ tremendously from site to site, EPA has left it to the discretion of the pollution prevention team to determine who are the appropriate employees to be trained. The team is cautioned to err on the side of training too many employees rather too few. Even if an employee is remotely involved in an industrial operation that may affect the quality of the storm water discharge that employee should be included in the employee training. To demonstrate EPA's intention of who should be trained it is easier to list positions that *may* not require the employee storm water training: secretaries, administrative personnel, and salespersons. One commenter also listed executive staff as potentially not requiring training. EPA would like to emphasize that it is necessary and helpful for executive staff to fully understand what activities are taking place on site to protect water quality. As such, executive staff should be fully considered as potential trainees along with other employees.

Two commenters argued that the proposed requirement to store vehicles awaiting maintenance in designated areas only would be more effective if the requirement only applied to vehicles with actual or potential fluid leaks since it could be interpreted that all vehicles are awaiting maintenance. EPA agrees with the commenters and has altered the permit language accordingly.

Several commenters felt that the monthly inspections required in the proposed permit were too burdensome, particularly due to the required documentation of such inspections. In response, EPA has reduced the frequency of inspections to quarterly. It is EPA's intention that the quarterly inspection and the visual storm water examination requirements be coordinated into one comprehensive program. By performing the two within similar time frames, it is hoped that the facility will gain useful insight by comparing the results of the overall facility inspection and the storm water visual examination. More frequent inspections, preferable with documentation, are encouraged, but are not required.

One commenter suggested providing an alternative certification option for facilities that eliminate exposure to storm water runoff such that the facility may be exempt from the quarterly visual examinations requirements. In response, EPA disagrees that the alternative certification provided to other sectors for purposes of chemical monitoring is appropriate for quarterly visual examinations. The quarterly visual examinations are still useful in areas where exposure has been "eliminated" to ensure that exposure has not re-occurred causing a storm water contamination problem.

Many commenters, including members of the passenger bus, tank truck carrier, petroleum marketers, motor carrier, and warehouse industries concurred with EPA in not requiring chemical analysis of storm water discharges from ground transportation facilities. As such, the commenters strongly opposed the alternative monitoring requirements presented in the proposed permit. EPA has retained the proposed monitoring of quarterly visual examinations only.

Most commenters supported the quarterly visual examination requirements. A few commenters expressed concern about fulfilling the requirement on large sites where employees may be on the road a significant amount of time and where rainfall is sporadic. The commenters were also concerned about sites without a dedicated environmental staff. The commenter suggested requiring the visual examination on an annual basis or only recommending the practice on a quarterly basis. In response, EPA has retained the quarterly visual examination requirements as proposed and has added a waiver of this requirement at inactive and unstaffed sites (see discussion of monitoring requirements above). EPA reminds the commenter that visual examination may be performed by a non-technical person who has been trained as to how to collect the sample and what to observe.

Many commenters were concerned with the requirement to attain the same water quality in the storm water discharges as an oil/water separator when such technology operates with such great variability. Concern was also expressed regarding the qualifications of facility personnel to make such an engineering judgment. In response, EPA has removed this reference in the final permit due to the difficulty in determining what water quality would be achieved with an oil/water separator. EPA does however encourage permittees to strive for the pollutant removal levels referenced in the literature for oil/water separators.

Water Transportation

The comments received on Sector Q, the water transportation sector, focused on eligibility, who is responsible for permit compliance, and monitoring conditions. One commenter raised concerns that the permitting for barge discharges (including barge storm water, washwater, and wastewater) is too uncertain. In response, today's permit regulates the storm water and washwater from the maintenance and equipment cleaning areas for canal barge operations (SIC code 4449) and for barge building and repair facilities (SIC code 3731). Today's permit, however, does not regulate wastewaters, such as bilge and ballast water, washwater, sanitary wastes, and cooling water originating from vessels. The permit specifies that the operators of such discharges must obtain coverage under a separate NPDES permit if discharged to waters of the United States or through

a municipal separate storm sewer system.

One commenter indicated that many Navy activities would fall under both VIII.Q. Vehicle Maintenance Shops/ Equipment Cleaning Operations and VIII.R. Ship Building and Repair and would like to see EPA establish some guidelines for sector applicability. In response, the permit does specify that when an industrial facility has industrial activities being conducted onsite that meet the description(s) of industrial activities in another sector(s), that the industrial facility must comply with any and all applicable monitoring and pollution prevention plan requirements of each of those sector(s).

One commenter explained that marine terminal and ports have a multitude of activities undertaken by many industrial facilities and contractors in the common areas of the port. This commenter wanted to know who is responsible for obtaining permit coverage for these common areas which are usually served by a common storm sewer system. The commenter suggested that EPA require the property owner (port authority) to be the primary permit holder and have each lessee or contractor become a co-permittee. In response, the property owner (port authority) is responsible for permitting the common areas of the facility, and each lessee operating an industrial activity is responsible for obtaining permit coverage for the specific operations occurring on their leased property. In today's permit, EPA does require that the co-permittee arrangement be utilized at airport facilities; however, EPA will not require this approach at marine terminals or ports. The industrial facilities and contractors located at airports generally are similar in nature, and one pollution prevention plan can more easily address the issues of concern. A marine terminal or port often has many dissimilar activities occurring within the facility lending itself to an approach which can focus on each specific industrial operation. A co-permittee approach would be acceptable to the Agency, but it is not required.

One commenter felt that facilities in this sector are being forced to monitor for parameter(s) that no one believed were of concern, were not monitored for in Part II, and are not even handled by the facility, specifically, the metals. In response, EPA has revised the monitoring requirements in the final permit for the water transportation sector based on the methodology described previously. To address the concern that some facilities would have to monitor for pollutants not found or suspected in their discharge, pollutant-by-pollutant certification will eliminate the requirement to monitor for those pollutants not present.

Ship and Boat Building or Repairing Yards

Comments received on the permit requirements included in sector R, ship and boat building or repairing yards, focused on grouping of industrial facilities, the benchmark values, and the application of multiple sectors to one facility (co-located industrial activities). Several commenters were concerned with the grouping of fiberglass and aluminum boat manufacturers into one sector. In response, EPA has evaluated the grouping of these types of boat manufacturers and has determined retain these industrial activities in one sector. EPA does not believe this will cause an undue burden on either industry given the revised monitoring requirements, which are now sub-sector specific and the flexibility of the pollution prevention plan requirements.

Two commenters took issue with the basis of the benchmark values. The benchmarks have been revised. For a full discussion of the revision see the part of the fact sheet that address the benchmark values directly.

One commenter was concerned with the burden of complying with all applicable sectors of the permit under the co-located industrial activities requirement. EPA has retained this provision in the final permit to ensure comprehensive environmental protection and does not believe this requirement is overly burdensome. This provision does not require that a separate and distinct pollution prevention plan be developed based on each applicable sector, but requires consideration of other BMPs from other sectors, and incorporation of those applicable BMPs into the pollution prevention plan for the facility. Where monitoring requirements from two or more sectors overlap, only one sample and analysis needs to be conducted (see discussion of co-located industrial activities above).

Air Transportation

Comments on Sector S, Air Transportation, primarily focused on obligations and responsibilities of the airport authority and its tenants. The storm water permit application regulations at 40 CFR 122.26(b)(14) define the storm water discharges associated with industrial activity in terms of eleven categories of industrial activities. Category (viii) includes transportation facilities classified as Standard Industrial Classification (SIC) code 45 that have vehicle and equipment maintenance (including vehicle and equipment rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or airport deicing operations (including aircraft and runway deicing). Review of the *Standard Industrial Classification Manual*, published in 1987 by the Office of Management and Budget, clarifies that SIC code 45, which addresses air transportation facilities, is not limited to the operators of airports, air terminals and flying fields. In fact, SIC code 45 also includes establishments primarily engaged in providing foreign and domestic air transportation, air courier services, and other fixed base operators who are primarily engaged in servicing, repairing, or maintaining airports and/or aircraft and these activities will also need to be permitted if they have point source discharges of storm water from regulated activities defined under 40 CFR 122.26(b)(14)(viii).

Tenants at the airport, other than the airport authority itself, who conduct industrial operations at the airport facility described at 40 CFR 122.26(b)(14)(viii), and establishments who conduct regulated industrial activities described elsewhere under 40 CFR 122.26(b)(14), and whose operations result in storm water point source discharges are also required to apply for coverage under an NPDES storm water permit for their areas of operation. EPA recognizes that airports and their tenants enter into contractual relationships, therefore, these types of tenant facilities could be co-permittees with the airport operator if both parties chose, or could be permitted separately, and thereby be responsible individually for compliance with the permit and implementation of a pollution prevention plan. EPA encourages co-permittee status because this approach to permit coverage promotes better coordination of the pollution prevention plan measures and possibly better control of the storm water discharges. However, as the owner/operator of an airport facility and the storm sewer system, airport authorities are ultimately responsible for storm water discharges from their storm sewer system to waters of the U.S. or to a municipal separate storm sewer system.

Other tenants at the airport, such as car rental and food preparation establishments, which are not defined separately as storm water discharges associated with industrial activity under 40 CFR 122.26(b)(14) must also be addressed. These tenants may chose to be co-permittees with the airport operator, or private agreements may be

worked out with the airport authority through contractual, or other means, to ensure that the storm water pollution prevention plan of the airport adequately addresses storm water contamination from these types of tenants. Regardless, airport authorities are required to identify the location and activities of all airport tenants as apart of the development of the storm water pollution prevention plan for the airport. EPA would like to clarify, however, that airport authorities are not responsible for ensuring compliance with the conditions of today's permit for storm water discharges associated with industrial activities regulated under 40 CFR 122.26(b)(14) conducted by tenants of the airport that apply separately for a storm water permit and which are not co-permittees with the airport authority.

Because the applicability of Part XI.S. of today's permit extends to storm water discharges from airport facilities, and in light of the fact that industrial activities conducted by the airport authorities and tenants of the airport are similar in nature, the eligibility section of Part XI.S. has been broadened to allow coverage for both airport authorities and tenants of an airport facility who conduct industrial activities as described in Part XI.S.1.

Treatments Works

Comments on Sector T, Domestic Wastewater Treatment Plants focused on required elements of the storm water pollution prevention plan and monitoring requirements. One commenter raised an issue regarding the requirement of providing a certification that the discharge contains nothing but storm water is unrealistic and can interfere with plant operations. It makes no allowances for temporary discharges into a storm water system.

In response, the Agency wants to clarify that some non-storm water discharges may be authorized by the permit. These non-storm water discharges include: discharges from fire fighting activities, fire hydrant flushing; potable water sources including waterline flushings; irrigation drainage; lawn watering; routine external building washdown which does not use detergents or other compounds; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate, springs, uncontaminated ground water; foundation or footing drains where flows are not contaminated with process materials such as solvents. The Agency notes that certification that the discharge contains nothing but storm water, except as mentioned above, is consistent with similar requirements for NPDES general permit requirements for storm water discharges associated with industrial activity published September 9, 1992.

Many commenters have concerns about the excessive training required in the permit for treatment works employees. Semiannual training for employees will result in an excessive amount of employee "downtime," thereby decreasing the effectiveness of current employees to control the POTW process and may result in the need for increase staff. It is therefore very important that the training program be reasonable. An alternative would be to have employee training conducted once per year instead of every 6 months. In response, EPA agrees and the permit has been modified to require employee training only annually (at least once per calendar year).

EPA received many comments on the requirements of monthly inspections plus annual comprehensive site compliance evaluation. Commenters state that it is likely that the same person who conducts the monthly inspections will also conduct the annual comprehensive site compliance evaluation. If the facility successfully passes the monthly inspections, then there is no reason to believe that it would not pass a yearly inspection. In response, EPA wants to clarify that the monthly inspections cover specific designated equipment and areas of the facility where there is a high potential for storm water contamination. The areas to be included in all inspections include: access roads/rail lines, equipment storage and maintenance areas (both indoor and outdoor areas); fueling; material handling areas; residuals treatment, storage, and disposal areas; and waste water treatment areas. A monthly inspection can be done easily and routinely, possibly with the guidance of an inspection checklist. Whereas the comprehensive site evaluation is a full site evaluation being conducted to assess the pollution prevention plan and to determine the overall level of compliance by the permittee, and if necessary incorporation of changes or modifications to the pollution prevention plan needed as a result of the inspection.

Several commenters indicated that requiring an inventory of materials, an investigation of past practices, and a list of significant spills for the previous 3 years is an inventory accumulation of history and only generates paperwork. Commenters suggested that a pollution prevention plan should evaluate current situation and determine potential problems that may result. In response, the Agency believes that past activities may have resulted in pollutant sources for present storm water discharges, and that it is appropriate to address materials that have been exposed to storm water within the past 3 years. EPA believes that the 3-year period is reasonable and does not impose excessive burdens for collecting information on permittees. The Agency notes that the 3-year period is consistent with similar requirements for individual applications for storm water discharges associated with industrial activity at 40 CFR 122.26(c)(1)(i) (B) and (D) and general NPDES records retention requirements under 40 CFR 122.21(p) and 40 CFR 112.7(d)(8).

A number of commenters strongly supported the use of the annual monitoring of the alternative monitoring constituents requirements. Other commenters questioned the accuracy of the statistical analysis performed for the proposed permit. In response, EPA has revised the methodology for determining which facilities will be required to perform monitoring as described elsewhere in the fact sheet. Under this new methodology, domestic wastewater treatment plants are not required to perform monitoring under this permit.

Food and Kindred Products

The greatest number of commenters on Sector U, Food and Kindred Products, are concerned with the monitoring requirements described in the proposed permit. The major objections to monitoring result from the consolidation of the entire food and tobacco industry into one sector which commenters believe compromises the group process since identical monitoring requirements are inappropriate for an industry with such a wide range in process operations. Commenters argue that several subsectors conduct most activities indoors, allowing little opportunity for storm water contamination, while other subsectors perform significant operations outdoors. Commenters also point out that EPA described in the proposed rule several factors that influence the impact of storm water on water quality (e.g., geographic location, hydrogeology, etc.) yet these factors were not considered when proposing monitoring requirements for the industry.

Commenters also argued that basing the monitoring requirements on such a diminutive set of sampling data is not valid given that data for only four pollutants was collected in sufficient

quantities to be analyzed. Commenters felt that insufficient samples were collected for four other pollutants. Commenters indicated that the inclusion of metals in the monitoring requirements for all sector members, when so little data was submitted for these pollutants, is not statistically valid. Commenters also took exception to EPA's decision to aggregate data for the food processing industry because lack of subsector-specific data does not substantiate monitoring requirements for these pollutants. Commenters believe that monitoring data that does exist for the sector shows no difference between industrial and residential/commercial areas. Also, commenters suggested that storm water data has shown to be very inconsistent and unrepresentative of the actual impact of discharges on receiving waters. Another common issues raised by the commenters was that the benchmark concentrations are unobtainable even with good BMPs. Commenters believe these levels are comparable to tertiary treatment standards for a full treatment system. Also, these cutoff levels appear to presage future permit limits for the industry which EPA has not demonstrated are necessary.

Several commenters believed that, if monitoring had to be conducted, the alternative monitoring is more appropriate since it more accurately reflects wastes from food and kindred products facilities. However, they suggested there should be an escape clause as with the proposed monitoring allowing facilities to only monitor for those pollutants expected to be present. Commenters felt that monitoring requirements will divert limited funds away from pollution prevention techniques needed to reduce pollutants in storm water as monitoring data show a correlation between enhanced housekeeping and preventative maintenance and reduced pollutant concentrations. Commenters concluded that combining visual examinations and a comprehensive site inspection is a much more appropriate way to evaluate storm water than monitoring.

Commenters also stated that EPA should give weight to the facilities who met Federal requirements in the application process and enforce against the thousands of facilities that ignored their obligations under the law rather than spending money on additional paperwork burdens. They suggested that sample results from the group applications should be credited towards the alternative monitoring requirements. Conversely, others commented that EPA should not provide "credit" to these groups, rather, EPA should recognize the difficulty facilities experience in collecting adequate storm water samples from acceptable rainfall events, especially small business facilities and facilities in arid climates.

Realistically, commenters stated, very few facilities will be able to obtain all four quarterly samples and almost none will be able to collect all monthly samples for visual observation without constructing automatic sampling facilities. They pointed out that EPA has previously indicated manual sampling was acceptable and automatic sampling would not be required.

Additional concerns were raised with regard to specific pollutants recommended for analysis in the proposed monitoring. For example commenters pointed out that ammonia data are not presented in the proposed permit fact sheet but the proposed permit states that ammonia exceeds benchmark values. Commenters stated that absent data to substantiate, EPA should not require food and kindred products facilities to monitor for ammonia. Also, EPA should clarify its intent in requiring ammonia monitoring. Specifically, the proposed permit does not state whether EPA is concerned with the nitrogen load (i.e., TKN) on receiving waters, making ammonia monitoring irrelevant, or with the toxic effects of ammonia, making TKN monitoring unnecessary.

Commenters also argued that EPA does not discuss iron and zinc as pollutants of concern for the industry, raising question as to why food facilities have to sample for these parameters. EPA should work with the few facilities or subsectors of the industry that are found to have metals in their discharge rather than requiring all food and kindred products facilities to monitor these pollutants. Also, the proposed cutoff for iron (0.3 mg/l) is overly protective. The gold book acute aquatic life freshwater criteria is 1.0 mg/l. Commenters also pointed out that fecal coliform data would be superfluous to BOD and TSS data for the industry and testing is much more difficult.

Based on the comments on the proposed permit, EPA has eliminated the alternative monitoring requirements and re-evaluated the proposed monitoring requirements for the sector through conducting a subsector analysis for the industry. The sub-sector analysis identified only two of the nine subsectors as having pollutants in storm water at concentrations above the revised benchmark values. As a result, most facilities in the food and kindred products sector no longer are required to collect and chemically analyze storm water samples. Only two sub-sectors will monitor: Grain Mill Products manufacturing (SIC code group 204) which will monitor for TSS and Fats and Oils manufacturing (SIC code group 207) which will monitor for TSS, BOD, COD and nitrate plus nitrite nitrogen.

Commenters in this sector also felt that additional requirements for pesticide storage were unnecessary. They contend that pesticide storage and use are currently regulated under FIFRA, State pesticide laws and the FDA. Further, anyone applying pesticides must be a certified applicator, trained in the safe and prudent use, as well as proper storage, of these products.

In response, EPA disagrees with the commenters statement that current pesticide storage and use regulations are adequate to prevent storm water contamination. Criteria for evaluating pesticide use and storage and criteria for evaluating storm water contamination from pesticide use and storage are not the same. With the increased use of pesticides at food and kindred products facilities compared to facilities in other sectors, EPA believes that the application and storage of these pesticides with storm water in mind is crucial to an effective storm water pollution prevention plan in this sector.

Textile Mill Products

Comments on Sector V, Textile Mill Products, focused primarily on the pollution prevention plan requirements and monitoring requirements. One commenter supported the permit requirement for visual examinations by indicating that visual examinations accompanied by facility-specific BMPs should most adequately address the minimal potential for controlling the contamination of storm water discharges at textile mill facilities. However, another commenter questions the usefulness of visual examinations, stating that EPA provides no justifications for such examinations.

In response, periodic inspections of controls are a requirement of the pollution prevention plan, and visual storm water runoff examinations and inspections should be treated as two distinct requirements. Visual examinations represent a minimum requirement in the assessment of the storm water discharge. The relative economic impact of the visual examination of the storm water should be minimal and, in conjunction with site specific BMPs can be used to evaluate the performance and effectiveness of best management practices employed at a particular facility. Visual examinations have been reduced to a quarterly frequency in the

final permit. For more information on visual examinations see the monitoring section of this summary.

In response to the Agency's request for comments regarding proposed alternative monitoring requirements, one commenter contends that it does not believe that the annual or semiannual monitoring and reporting requirements put forth by the Agency are necessary or appropriate. In assessing this comment, it should again be noted that the Agency had only requested comments on the possibility of imposing the proposed alternative monitoring requirements on textile facilities.

Today's permit does not include the proposed alternative monitoring requirements. Based on the revised methodology for determining monitoring requirements at the industry sub-sector level, the textile industry is no longer required to conduct chemical monitoring for any specific pollutant. Due to the nature of the industry, and the fact that most operations at such facilities are conducted indoors, the contact of storm water with most pollutants typical of this industry are minimized or eliminated. The statistical analysis performed by the Agency using the Part 2 sampling data when conducted at the sub-sector level supports this conclusion.

Wood and Metal Furniture and Fixtures

Only six comments were submitted addressing the wood and metal furniture and fixtures manufacturing industry. Each of the comments supported the proposed monitoring conditions, which only requires quarterly visual examinations of storm water discharges. In today's final permit, this requirement remains unchanged. Analytical monitoring of storm water discharges will not be necessary from wood and metal furniture and fixtures manufacturing facilities, unless there are co-located activities, such as coal piles, refuse piles, landfills etc., which may be required to monitor under provisions elsewhere in the permit.

Rubber, Plastic, and Miscellaneous Products

The majority of the comments received on Sector Y, Rubber, Plastic Products, and miscellaneous manufacturing industries, pertained to the proposed monitoring requirements and the inspection and recordkeeping requirements of the permit. In addition, comments were received regarding EPA's description of the pollutant sources and the assessment of the monitoring results submitted with the group applications. The Rubber Manufacturers Association (RMA) supported the specific BMP requirements which were proposed to control zinc in storm water discharges from rubber manufacturing facilities. Concern was also expressed regarding the consolidation of group applications into the 29 industrial sectors. The proposed permit only required visual examinations of storm water samples for facilities in this sector, rather than chemical testing which was proposed for 17 of the 29 sectors. While commenters supported the absence of analytical testing requirements, they also argued that the frequency (quarterly) for the visual examinations was excessive. Commenters also opposed the proposed alternate monitoring requirements which would have required analytical testing for certain parameters.

In the final permit, EPA modified the methodology for determining the types of facilities which are required to conduct analytical testing of storm water. The revised methodology is discussed in section VI.E of the final fact sheet and also in the monitoring portion of this summary. EPA believes that the sub-sector methodology better targets the monitoring requirements toward the specific types of facilities within the 29 sectors which pose the greatest risk to the storm water quality.

Based on the sub-sector methodology, the final permit requires that manufacturers of rubber products conduct analytical testing of storm water samples for zinc. This pollutant was shown to be a pollutant of concern from the monitoring data which were submitted by rubber products manufacturers (i.e., the median concentration was above the EPA benchmark concentration of 0.065 mg/l for zinc). Testing of grab samples is required quarterly during the second and fourth years of the permit. However, permittees may omit the testing during the fourth year if the second year results are below the benchmark concentration. In addition, the final permit provides for "alternate certification" in lieu of monitoring (see section VI.E.3 of the fact sheet) on a pollutant-by-pollutant basis as well as on an outfall-by-outfall basis. As such, analytical testing for zinc would not be required for facilities which do not use zinc, or for facilities where industrial activities are not exposed to storm water.

The final permit only requires analytical testing of storm water samples for rubber products manufacturers. However, the final permit does retain the requirement for a quarterly visual examination for all facilities (including rubber manufacturers) in this sector. This requirement is also standard for all sectors of the permit. EPA believes that the quarterly frequency appropriately balances the costs associated with the visual examinations with the need to periodically assess any pollutant loadings in the discharges and the effectiveness of the storm water pollution prevention plan.

A commenter in this sector also expressed concern that analytical testing for a number of parameters in storm water had been a requirement of EPA's baseline general permit of September 9, 1992 for facilities in major SIC group 30. EPA recognizes that there are differences in the requirements between today's multi-sector general permit and the previous baseline general permit. These differences are the result of the additional information concerning these facilities obtained during the group application process. However, concerns regarding the requirements of the baseline general permit are outside the scope of the present permitting action.

The proposed permit would have required a comprehensive site compliance evaluation at "appropriate" intervals, but not less than once per year. A commenter argued that this was too vague and should be clarified. In response, the final permit now simply requires a comprehensive site compliance evaluation at a minimum of once per year for all facilities covered by the permit.

The commenter was also unclear regarding the "qualified" personnel who are required to conduct the comprehensive site compliance evaluations. In discussing the requirements for a comprehensive site compliance evaluation, section VI.C.4 of the fact sheet notes that inspectors should be members of the pollution prevention team. Such individuals should be familiar with the potential pollutant sources at the facility, and the control measures developed for the storm water pollution prevention plan to control pollutant discharges. EPA believes that facilities should be able to identify appropriate individuals for the necessary site evaluations. The commenter also requested that the permit provide that the facility inspections (required by Part XI.Y.3.d of the permit) would be conducted at appropriate intervals as stated in the storm water pollution prevention plan. Such a requirement was included in the proposed permit and has been retained in the final permit. The commenter objected to the requirement that facilities maintain records of inspections and visual examinations.

EPA disagrees with the commenter on this issue and believes that such records are necessary for EPA to verify compliance with the requirements of the permit. Therefore, the records retention requirements were retained in final permit basically as proposed. One relatively minor change was made which standardizes the records retention period for all sectors to 3 years, which is the minimum required by NPDES regulations at 40 CFR 122.42(j). Additional information concerning issues associated with inspections and recordkeeping can be found in the reporting and record keeping portion of this summary.

Leather Tanning

In response to comments that the leather tanning industry was required to monitor in error and that manganese and aluminum should not be included in the list of monitoring parameters, the final multi-sector permit does not require leather tanning facilities to conduct chemical monitoring. However, the industry must still perform visual examinations. More discussion of the revised monitoring requirements under today's final permit can be found in the monitoring section of this summary.

In response to a comment that EPA should simply adopt the model permit and pollution prevention plan submitted by one industry organization, EPA has determined that the proposed leather tanning permit and pollution prevention plan with BMPs which was published in the **Federal Register** on November 19, 1993, is best suited to control storm water discharges from this industry.

In response to the comment that facilities submitted chromium data because they were required to (as a categorical pollutant), EPA clarifies that chromium is limited in an effluent guideline for leather tanning process wastewater. The industry was therefore required to submit monitoring data for chromium. The leather industry was also required to submit monitoring data for "those pollutants that they knew or had reason to believe were present." These pollutants were shown in tables which listed conventional and nonconventional pollutants, toxic pollutants and hazardous pollutants. These tables were included in the permit application Form 2–F.

Fabricated Metal Products Industry

Many commenters stated that the fabricated metal industry should be further divided into dry and wet fabricating industries. Most explained that the processes and practices vary widely between these two types of fabricating industries. In particular, many pollutants vary between these groups due to the fact that each of these industries require very different chemicals in their processes. The main concern expressed by commenters was that monitoring for the entire group was based on a wide range of chemicals for both industrial processes that may not be present at a facility if only one process is conducted at the facility.

EPA agrees that the industries covered under this section of the permit should be re-evaluated to examine more carefully inherent differences between subgroups in the industry. As a result, today's rule has identified industry subgroups using the three and four-digit SIC classification for the purposes of determining which industries will conduct monitoring in this sector. Industry subgroups will monitor for specific pollutants where the median value exceeds the revised benchmark levels. EPA has also expanded the flexibility of the monitoring requirement by allowing facilities to certify on a pollutant-by-pollutant basis to no exposure to storm water in lieu of monitoring for that chemical. This can result in some facilities not monitoring and others limiting the number of pollutants required to be monitored.

Several commenters requested that the fabricated metal industry be required to conduct visual examinations and annual site compliance evaluations only. EPA does not agree. Chemical monitoring is still necessary, given the results of the data evaluation conducted on the subsectors. Visual examinations in combination with chemical monitoring and site compliance evaluations will help assess the presence of pollutants of concern in the discharges and the effectiveness of the pollution prevention plan at controlling these.

A commenter requested that EPA clarify whether all of SIC code group 34 is covered in Sector 29, such as the forgings industry. They pointed out a discrepancy between the preamble language and the permit language relating to coverage. In response, EPA inadvertently left out certain SIC code group 34 industries in the proposed permit. The fact sheet contained the entire list of industries covered under this section. EPA has clarified the permit language to correct this omission.

Several commenters suggested that EPA differentiate between dry fabricators and others by adding a definition that placed a qualifier "Metal Treatment Only" to the terms and conditions that apply only to metal treatment operations. Commenters also suggested the permit should require dry fabricators to certify to no metal treatment operations or other operations likely to result in discharges of the pollutants of concern.

EPA has not placed a qualifier on the terms and conditions of the permit. However, using the revised analysis to determine monitoring, addresses some of the concerns about the grouping of sectors. Also, determining site-specific BMPs and certifying, on a pollutant-by-pollutant basis to no exposure to storm water will add more flexibility in determining monitoring requirements.

A commenter requested that EPA expand the definition of fabricated metal industries in the permit language. EPA has not expanded the definition of fabricated metal industries other than including the other industries identified in the proposed fact sheet that were inadvertently left out of the permit language. Other industries that could be related to this sector are covered under the Primary Metals Industry section of the permit. EPA believes that it has listed as eligible for coverage, all industries that participated in the group application process.

Commenters stated that the list of options for controlling pollutants can be expensive and uneconomical. Many thought that the BMPs may later become mandatory and do not allow for alternative measures to control pollutants at a given site.

To clarify, EPA has only provided a list of potential BMPs to be considered by each facility operator when preparing a pollution prevention plan. This list is neither totally inclusive nor mandatory. Permittees are free to determine the most economical and effective BMPs specific for a given facility and activity.

Commenters felt that most fabricators do not have process wastewater discharges. Because of this, they requested a waiver on requiring proof of no commingling of process waste water with storm water. Today's permit does not change this requirement. Some fabricators employ acid baths, wash waters and other process wastewater related activities. Certification of no commingling remains an important part of the permit requirements to be included with the storm water pollution prevention plan certification to ensure that storm water discharges are not contaminated by these discharges.

A commenter pointed out that the description of the materials used at facilities in this sector should have noted that many of these materials are not necessarily used at all types of facilities within the sector. The commenter was apparently concerned that this description could erroneously

suggest that the runoff from certain types of facilities in the sector could be contaminated with pollutants which are not used at all facilities. In response, EPA has modified the final fact sheet to clarify that the list of materials is a cumulative list gathered from all the types of facilities in the sector, and that individual facilities may not use all materials which are listed.

A commenter also disagreed with EPA's assessment in the draft fact sheet for this sector that the monitoring results which were submitted with the group applications may not be inclusive of all the pollutants which could be present in the runoff. In response, EPA has deleted the discussion in question from the final fact sheet.

Transportation Equipment, and Industrial or Commercial Machinery

One commenter was concerned with the grouping of facilities in Sector AB. The commenter felt that it is inappropriate to regulate commercial machine manufacturing facilities with other miscellaneous machinery manufacturing facilities. In response, EPA has retained the proposed grouping of the transportation equipment, industrial, or commercial machinery manufacturing sector. Although the specific processes that occur indoors and the final products produced will vary at the different facilities, the group application data indicated that the industrial activities and significant materials that may be exposed to storm water are similar. In addition, today's final permit includes flexible requirements for this sector which allow operators to implement controls based upon site-specific activities and materials.

The same commenter also expressed concern over the use of such sector groupings in the future. In response, EPA is making use of these industrial groupings only for the development of this storm water general permit. Future uses of these industrial groupings will be reevaluated by EPA based upon all available information at the time and based upon the intended usage.

Electronic and Electrical Equipment, Photographic and Optical Goods

EPA received a total of 6 comments on the multi-sector permit from facilities in sector AC, facilities which manufacture electronic and electrical equipment and components, photographic and optical goods. Comments addressed the proposed monitoring requirements and the proposed requirements for the storm water pollution prevention plan. The proposed permit only required visual examinations of storm water samples for facilities in sector AC, rather than analytical testing which was proposed for certain other sectors. Commenters supported these proposed monitoring requirements and opposed the proposed alternate monitoring requirements which would have required analytical testing for certain parameters. Like the proposed permit, the final permit does not require analytical testing of storm water samples for facilities in sector AC. A more detailed discussion of EPA's responses to the monitoring issues overall is found in the portion of the response to comments which addresses monitoring. The proposed permit required that facilities in sector AC develop and implement a storm water pollution prevention plan and did not include any industry-specific numeric effluent limits. Commenters supported these provisions and the final permit has not been changed in this regard.

Authorization to Discharge Under the National Pollution Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et seq., the "Act") except as provided in Part I.B.3. of this storm water multi-sector general permit, operators of point source discharges of storm water associated with industrial activity that discharge into waters of the United States, represented by the industry sectors identified in Part XI. of this permit, are authorized to discharge in the areas of coverage listed below in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges from the industrial activities covered under this permit who intend to be authorized by this permit must submit a Notice of Intent (NOI) in accordance with Part II.B. of this permit. Operators of storm water discharges associated with industrial activity who fail to submit an NOI in accordance with Part II.B. of this permit are not authorized under this general multi-sector permit.

This permit shall become effective on October 1, 1995, and shall expire at midnight on October 1, 2000.

Region I

Signed this 28th day of August, 1995.

David Fierra,

Water Management Division Director.

Areas of coverage	Permit No.
Connecticut Federal Indian Reservations.	CTR05*##F
Maine	MER05*###
Federal Indian Reservations.	MER05*##F
Massachusetts	MAR05*###
Federal Indian Reservations.	MAR05*##F
New Hampshire	NHR05*###
Federal Indian Reservations.	NHR05*##F
Rhode Island Federal Indian Reservations.	RIR05*##F
Vermont Federal Indian Reservations.	VTR05*##F
Vermont Federal Facilities	VTR05*##F

Region II

Signed this 16th day of August, 1995.

Richard L. Caspe,

Water Management Division Director.

Areas of coverage	Permit No.
Puerto Rico	PRR05*###
Federal Facilities	PRR05*##F

Region III

Signed this 11th day of September, 1995.

Alvin R. Morris,

Water Management Division Director.

Areas of coverage	Permit No.
District of Columbia	DCR05*###
Federal Facilities	DCR05*##F
Delaware Federal Facilities	DER05*##F

Region IV

Signed this 11th day of September, 1995.

Robert F. McGhee,

Acting Water Management Division Director.

Areas of coverage	Permit No.
Florida	FLR05*###

Region VI

Signed this 11th day of September, 1995.

William B. Hathaway,

Water Management Division Director.

Areas of coverage	Permit No.
Louisiana	LAR05*###
Federal Indian Reservations.	LAR05*##F
New Mexico	NMR05*###
Federal Indian Reservations (except Navajo and Ute Mountain Reservation lands).	NMR05*##F
Oklahoma	OKR05*###
Federal Indian Reservations.	OKR05*##F
Texas	TXR05*###
Federal Indian Reservations.	TXR05*##F

Region IX

Signed this 24th day of August, 1995.

Felicia Marcus,

Water Management Division Director.

Areas of coverage	Permit No.
Arizona	AZR05*###
Federal Indian Reservations.	AZR05*##F
Federal Facilities	AZR05*##F
California:	
Federal Indian Reservations.	CAR05*##F
Idaho:	
Duck Valley Reservation	NVR05*##F
Nevada Federal Indian Reservations.	NVR05*##F
New Mexico:	
Navajo Reservation	AZR05*##F
Oregon:	
Fort McDermitt Reservation.	NVR05*##F
Utah:	
Goshute Reservation	NVR05*##F
Navajo Reservation	AZR05*##F
Johnston Atoll	JAR05*###
Federal Facilities	JAR05*##F
Midway Island and Wake Island.	MWR05*###
Federal Facilities	MWR05*##F

Region X

Signed this 12th day of September, 1995.

David H. Teeter,

Acting Water Management Division Director.

Areas of coverage	Permit No.
Alaska Federal Indian Reservations.	AKR05*##F
Idaho	IDR05*###
Federal Indian Reservations (except Duck Valley Reservation lands).	IDR05*##F
Federal Facilities	IDR05*##F
Oregon Federal Indian Reservations (except for Fort McDermitt Reservation lands).	ORR05*##F
Washington Federal Indian Reservations.	WAR05*##F
Washington Federal Facilities.	WAR05*##F

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Addenda

Addendum A—Pollutants Identified in Tables II and III of Appendix D of 40 CFR Part 122
Addendum B—Notice of Intent Form Here
Addendum C—Notice of Termination (NOT) Form
Addendum D—Partial List of Large, Medium, and Designated Municipalities
Addendum E—Basic Format for Environmental Assessment
Addendum F—Section 313 Water Priority Chemicals
Addendum G—List of Applicable References
Addendum H—Endangered Species Guidance

I. Coverage Under This Permit

A. Permit Area

The permit is being issued in the following areas:

Region I—the States of Maine, Massachusetts, and New Hampshire; Federal Indian Reservations located in Connecticut, Massachusetts, New Hampshire, Maine, Rhode Island, and Vermont; and Federal facilities located in Vermont.

Region II—the Commonwealth of Puerto Rico; and Federal facilities located in Puerto Rico.

Region III—the District of Columbia and Federal facilities located in Delaware and the District of Columbia.

Region IV—the State of Florida.

Region V—no areas.

Region VI—the States of Louisiana, New Mexico, Oklahoma, and Texas and Federal Indian Reservations located in Louisiana, New Mexico (except Navajo Reservation lands, which are handled by Region IX, and Ute Mountain Reservation lands, which are handled by Region VIII and are not being covered by this permit), Oklahoma, and Texas.

Region VII—no areas.

Region VIII—no areas.

Region IX—the State of Arizona; the Territories of Johnston Atoll, and Midway and Wake Island; all Federal Indian Reservations located in Arizona, California, and Nevada; those portions of the Duck Valley, Fort McDermitt, and Goshute Reservations located outside Nevada, those portions of the Navajo Reservation located outside Arizona; and Federal facilities located in Arizona, Johnston Atoll, and Midway and Wake Islands.

Region X—the State of Idaho; Federal Indian Reservations located in Alaska, Oregon (except for Fort McDermitt Reservation lands which are handled by Region IX), Idaho (except Duck Valley Reservation lands which are handled by Region IX), and Washington; and for Federal facilities located in Alaska, Idaho and Washington.

B. Eligibility

1. Discharges Covered. Except for storm water discharges identified under paragraph I.B.3., this permit may cover all new and existing point source discharges of storm water to waters of the United States that are associated with industrial activity identified under the coverage sections contained in Part XI. (see Table 1). Military installations must comply with the permit and monitoring requirements for all sectors that describe industrial activities that such installations perform.

TABLE 1

Storm water discharges from	Are covered if listed in part
Timber Products Facilities	XI.A.1.
Paper and Allied Products Manufacturing Facilities	XI.B.1.
Chemical and Allied Products Manufacturing Facilities	XI.C.1.
Asphalt Paving, Roofing Materials, and Lubricant Manufacturing Facilities	XI.D.1.
Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing Facilities	XI.E.1.
Primary Metals Facilities	XI.F.1.
Metal Mines (Ore Mining and Dressing)	XI.G.1.
Coal Mines and Coal Mine-Related Facilities	XI.H.1.
Oil or Gas Extraction Facilities	XI.I.1.
Mineral Mining and Processing Facilities	XI.J.1.
Hazardous Waste Treatment Storage or Disposal Facilities	XI.K.1.
Landfills and Land Application Sites	XI.L.1.
Automobile Salvage Yards	XI.M.1.
Scrap Recycling and Waste and Recycling Facilities	XI.N.1.
Steam Electric Power Generating Facilities	XI.O.1.

TABLE 1—Continued

Storm water discharges from	Are covered if listed in part
Vehicle Maintenance or Equipment Cleaning areas at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, the United States Postal Service, or Railroad Transportation Facilities.	XI.P.1.
Vehicle Maintenance Areas and Equipment Cleaning Areas of Water Transportation Facilities	XI.Q.1.
Ship or Boat Building and Repair Yards	XI.R.1.
Vehicle Maintenance Areas, Equipment Cleaning Areas or From Airport Deicing Operations located at Air Transportation Facilities.	XI.S.1.
Wastewater Treatment Works	XI.T.1.
Food and Kindred Products Facilities	XI.U.1.
Textile Mills, Apparel and other Fabric Product Manufacturing Facilities	XI.V.1.
Furniture and Fixture Manufacturing Facilities	XI.W.1.
Printing and Publishing Facilities	XI.X.1.
Rubber and Miscellaneous Plastic Product Manufacturing Facilities	XI.Y.1.
Leather Tanning and Finishing Facilities	XI.Z.1.
Facilities That Manufacture Metal Products including Jewelry, Silverware and Plated Ware	XI.AA.1.
Facilities That Manufacture Transportation Equipment, Industrial or Commercial Machinery	XI.AB.1.
Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods	XI.AC.1.

2. Construction. This permit may authorize storm water discharges associated with industrial activity that are mixed with storm water discharges associated with industrial activity from construction activities provided that the storm water discharge from the construction activity is authorized by and in compliance with the terms of a different NPDES general permit or individual permit authorizing such discharges.

3. Limitations on Coverage. The following storm water discharges associated with industrial activity are not authorized by this permit:

a. Storm water discharges associated with industrial activities that are not listed under the coverage sections contained in Part XI. (see Table 1).

b. Storm water discharges subject to New Source Performance Standards except as provided in Part I.B.7. below.

c. Storm water discharges associated with industrial activity that are mixed with sources of non-storm water other than non-storm water discharges that are:

(1) In compliance with a different NPDES permit; or

(2) Identified by and in compliance with Part III.A. (Prohibition of Non-storm Water Discharges) of this permit.

d. Storm water discharges associated with industrial activity that are subject to an existing NPDES individual or general permit (except storm water discharges subject to the NPDES General Permit for Storm Water Discharges Associated With Industrial Activity published September 9, 1992 [57 FR 41297], or September 25, 1992 [57 FR 44438]).

e. Are located at a facility where an NPDES permit has been terminated (other than at the request of the permittee) or denied, or that are issued a permit in accordance with Part VII.M (Requirements for Individual or Alternative General Permits) of this permit;

f. Storm water discharges associated with industrial activity that the Director [U.S. Environmental Protection Agency (EPA)] has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard.

g. Discharges subject to storm water effluent guidelines, not described under Part XI.

h. Storm water discharges associated with industrial activity from inactive mining, inactive landfills, or inactive oil and gas operations occurring on Federal lands where an operator cannot be identified.

4. Storm Water Not Associated With Industrial Activity. Storm water discharges associated with industrial activity that are authorized by this permit may be combined with other sources of storm water that are not classified as associated with industrial activity pursuant to 40 CFR 122.26(b)(14).

5. Endangered Species Protection.

a. Permit Coverage Restrictions: In order to be eligible for coverage under this permit, the applicant must comply with the Endangered Species Act. A discharge of storm water associated with industrial activity may be covered under this permit only if either:

(1) The storm water discharge(s), and the construction of BMPs to control storm water runoff, are not likely to adversely affect species identified in Addendum H of this permit; or

(2) The applicant's activity has received previous authorization under the Endangered Species Act and established an environmental baseline that is unchanged; or,

(3) The applicant is implementing appropriate measures as required by the Director to address adverse affects.

b. All dischargers applying for coverage under this multi-sector storm water general permit must certify that their storm water discharge(s), and the construction of BMPs to control storm water runoff, are not likely to adversely affect species identified in Addendum H of this permit.

6. National Historic Preservation Act. In order to be eligible for coverage under this permit, the applicant must be in compliance with the National Historic Preservation Act. A discharge of storm water associated with industrial activity may be covered under this permit only if:

(i) The discharge does not affect a property that is listed or is eligible for listing in the National Historic Register maintained by the Secretary of Interior; or,

(ii) The applicant has obtained and is in compliance with a written agreement between the applicant and the State Historic Preservation Officer (SHPO) that outlines all measures to be undertaken by the applicant to mitigate or prevent adverse effects to the historic property.

7. Discharges Subject to New Source Performance Standards. Operators of facilities with storm water discharges subject to New Source Performance Standards [1] shall have documentation of

[1] Storm water discharges subject to New Source Performance Standards (NSPS) and that may be covered under this permit include: runoff from material storage piles at cement manufacturing facilities [40 CFR Part 411 Subpart C (established February 23, 1977)]; contaminated runoff from phosphate fertilizer manufacturing facilities [40 CFR Part 418 Subpart A (established April 8, 1974)]; coal pile runoff at steam electric generating facilities [40 CFR Part 423 (established November 19, 1982)]; and runoff from asphalt emulsion

a final EPA decision indicating that the Agency has determined that the storm water discharge has no direct or indirect impact. This documentation shall be obtained and retained on site prior to the submittal of the Notice of Intent. Operators of these facilities shall not be authorized under the terms and conditions of this permit until the submittal of a Notice of Intent to gain coverage under this permit. Where documentation of the Agency's decision has not been obtained for a facility subject to New Source Performance Standards, the operator must obtain such documentation prior to submitting a NOI. The permittee may use the format in Addendum E to submit information to EPA to initiate the process of the environmental review. The information shall be sent to the appropriate address listed in Part VI.B. of this permit. In order to maintain eligibility, the permittee must implement any mitigation required of the facility as a result of the National Environmental Policy Act (NEPA) review process. Failure to implement mitigation measures upon which the Agency's NEPA finding is based is grounds for termination of permit coverage.

C. Authorization

Dischargers of storm water associated with industrial activity must submit a complete NOI in accordance with the requirements of Part II of this permit, using an NOI form as found in Addendum B (or photocopy thereof), to be authorized to discharge under this general permit. Unless notified by the Director to the contrary, owners or operators who submit such notification are authorized to discharge storm water associated with industrial activity under the terms and conditions of this permit 2 days after the date that the NOI is postmarked. The Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information.

D. Overview of the Multisector General Permit

Parts I.–X. apply to all facilities. Parts I. and II. describe eligibility requirements and the process for obtaining permit coverage. Parts III.–X. contain "basic" permit requirements.

Part XI. provides additional requirements for particular sectors of industrial activity. For example, primary metal facilities add Part XI.F., to the "universal" Parts I.–X. requirements.

Some facilities may have "co-located" activities that are described in more than one sector and need to comply with applicable conditions of each sector. For example, a chemical manufacturing facility could have a land application site and be subject to Part XI.C.—Chemical and Allied products Manufacturing sector (primary activity), with runoff from the land application site (co-located activity) also subject to conditions in the Part XI.L.—Landfills and Land Application Sites sector.

Part XII of the permit contains conditions (e.g., effluent limitations or special reporting requirements) that only apply to facilities located in a particular State, EPA Region, or other area. Those special conditions are in addition to, or in lieu of, the "generic" Parts I.–XI. permit requirements.

Part XII of the permit also contains differences in permit eligibility and availability. For example, only the permits for Louisiana, New Mexico, Oklahoma, and Texas allow coverage of certain mine dewatering discharges from construction sand and gravel, industrial sand, and crushed stone mines (subject to additional permit conditions) under Sector J.—Mineral Mining and Processing.

Addendum D. lists large and medium municipal separate storm sewer systems (MS4s). Facilities located in these jurisdictions have special responsibilities (described in the permit) with regard to compliance with local requirements and providing information to the operator of the MS4).

II. Notification Requirements

A. Deadlines for Notification

1. Existing Facility. Except as provided in paragraphs II.A.4. (New Operator), and II.A.5. (Late Notification), individuals who intend to obtain coverage for an existing storm water discharge associated with industrial activity under this general permit shall submit an NOI in accordance with the requirements of this part on or before [insert date 90 days after permit finalization];

2. New Facility. Except as provided in paragraphs II.A.3. (Oil and Gas Operations), II.A.4. (New Operator), and II.A.5. (Late Notification), operators of facilities that begin industrial activity after [insert date 90 days after permit finalization] shall submit an NOI in accordance with the requirements of this part at least 2 days prior to the commencement of the industrial activity at the facility;

3. Oil and Gas Operations. Operators of oil and gas exploration, production, processing, or treatment operations or transmission facilities, that are not required to submit a permit application as of [insert date 90 days after permit finalization] in accordance with 40 CFR 122.26(c)(1)(iii), but that after [insert date 90 days after permit finalization] have a discharge of a reportable quantity of oil or a hazardous substance for which notification is required pursuant to either 40 CFR 110.6, 40 CFR 117.21, or 40 CFR 302.6, must submit an NOI in accordance with the requirements of Part II.C. of this permit within 14 calendar days of the first knowledge of such release.

4. New Operator. Where the operator of a facility with a storm water discharge associated with industrial activity that is covered by this permit changes, the new operator of the facility must submit an NOI in accordance with the requirements of this part at least 2 days prior to the change.

5. Late Notification. An operator of a storm water discharge associated with industrial activity is not precluded from submitting an NOI in accordance with the requirements of this part after the dates provided in Parts II.A.1., 2., 3., or 4. (above) of this permit.

6. Part II.A.6 Facilities Previously Subject to the Baseline General Permit. Eligible facilities previously covered by EPA's 1992 Baseline General Permits for Storm Water Discharges Associated with Industrial Activity (57 FR 41297 or 57 FR 44438) may elect to be covered by this permit by submitting an NOI in accordance with the requirements of this Part within [insert date 90 days after permit finalization]. To avoid a lapse in permit coverage should reissuance or termination of the 1992 Baseline General Permits eliminate coverage for certain industries under those permits, NOIs from eligible facilities may also be submitted during the period 90 days prior to the expiration date of the applicable Baseline General Permit.

B. Contents of Notice of Intent

The NOI shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit and shall include the following information:

1. Permit. An indication of which NPDES storm water general permit is being applied for (either baseline general, baseline construction, or multi-sector);

2. Name. The operator's name, address, telephone number, and status

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facilities [40 CFR Part 443 Subpart A (established July 24, 1975)]. NSPS apply only to discharges from those facilities or installations that were constructed after the promulgation of NSPS. For example, storm water discharges from areas where the production of asphalt paving and roofing emulsions occurs are subject to NSPS only if the asphalt emulsion facility was constructed after July 24, 1975.

as Federal, State, private, public, or other entity;

3. Location. The street address of the facility for which the notification is submitted. Also describe the location of the approximate center of the facility in terms of the latitude and longitude to the nearest 15 seconds, or the quarter section, township and range (to the nearest quarter section);

4. Federal Indian Reservations. An indication of whether the facility is located on Federal Indian Reservations;

Receiving Water. The name of the receiving water(s), or if the discharge is through a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water(s) for the discharge through the municipal separate storm sewer;

6. Co-permittee. The storm water general permit number if such a number has been issued to a co-permittee;

7. Monitoring. The monitoring status of the facility;

8. SIC Code. Up to four 4-digit Standard Industrial Classification (SIC) codes that best represent the principal products produced or services rendered, or for hazardous waste treatment, storage or disposal facilities, land/disposal facilities that receive or have received any industrial waste, steam electric power generating facilities, or treatment works treating domestic sewage, a narrative identification of those activities;

9. Other Permits. The permit number(s) of additional NPDES permit(s) for any discharge(s) (including non-storm water discharges) from the site that are currently authorized by an NPDES permit;

10. Presence of Endangered Species. Based on the instructions in Addendum H, no species identified in Addendum H are in proximity to the storm water discharges to be covered under this permit, or the areas of BMP construction to control those storm water discharges.

11. National Historic Preservation Act Compliance. A yes or no response to the following statement: Applicant has obtained and is in compliance with Historic Preservation Agreement.

12. Eligibility Certification. The following certifications shall be signed in accordance with Part VII.G.

I certify under penalty of law that I have read and understand the Part I.B. eligibility requirements for coverage under the multi-sector storm water general permit including those requirements relating to the protection of species identified in Addendum H.

To the best of my knowledge the discharges covered under this permit, and the construction of BMPs to control storm water runoff, are not likely and will not likely, adversely affect any species identified in Addendum H of this permit, or are otherwise eligible for coverage due to previous authorization under the Endangered Species Act.

To the best of my knowledge, I further certify that such discharges, and construction of BMPs to control storm water runoff, do not have an effect on properties listed or eligible for listing on the National Register of Historic Places under the National Historic Preservation Act, or are otherwise eligible for coverage due to a previous agreement under the National Historic Preservation Act.

I understand that continued coverage under the multi-sector storm water general permit is contingent upon maintaining eligibility as provided for in Part I.B.

13. Pollution Prevention Plan Certification. For any facility that begins to discharge storm water associated with industrial activity after [insert date 270 days after permit finalization], a certification that a storm water pollution prevention plan has been prepared for the facility in accordance with Part IV. of this permit must be included on the NOI. (Do not include a copy of the plan with the NOI submission.)

C. Where To Submit.

Facilities that discharge storm water associated with industrial activity must use an NOI form provided by the Director (or photocopy thereof). NOIs must be signed in accordance with Part VII.G. (Signatory Requirements) of this permit. NOIs are to be submitted to the Director of the NPDES program at the following address: Storm Water Notice of Intent (4203), 401 M Street, S.W., Washington, D.C. 20460.

D. Additional Notification

Facilities that discharge storm water associated with industrial activity through large or medium municipal separate storm sewer systems (systems located in an incorporated city with a population of 100,000 or more, or in a county identified as having a large or medium system (see definition in Part X. of this permit and Addendum D of this notice)), or into a municipal separate storm sewer that has been designated by the permitting authority shall, in addition to filing copies of the NOI in accordance with paragraph II.C., submit signed copies of the NOI to the operator of the municipal separate storm sewer through which they discharge in accordance with the deadlines in Part II.A. (Deadlines for Notification) of this permit.

III. Special Conditions

A. Prohibition of Non-storm Water Discharges

1. Storm Water Discharges. Except as provided in paragraph III.A.2 (below), all discharges covered by this permit shall be composed entirely of storm water.

2. Non-storm Water Discharges. a. Except as provided in paragraph III.A.2.b (below), discharges of material other than storm water must be in compliance with an NPDES permit (other than this permit) issued for the discharge.

b. The following non-storm water discharges may be authorized by this permit provided the non-storm water component of the discharge is in compliance with Part IV and Part XI: discharges from fire fighting activities; fire hydrant flushings; potable water sources including waterline flushings; drinking fountain water, uncontaminated compressor condensate, irrigation drainage; lawn watering; routine external building washdown that does not use detergents or other compounds; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; compressor condensate; uncontaminated springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

B. Releases in Excess of Reportable Quantities

1. Hazardous Substances or Oil. The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 117 and 40 CFR Part 302. Except as provided in paragraph III.B.2 (Multiple Anticipated Discharges) of this permit, where a release containing a hazardous substance in an amount equal to or in excess of a reporting quantity established under either 40 CFR Part 117 or 40 CFR Part 302, occurs during a 24-hour period:

a. The discharger is required to notify the National Response Center (NRC) (800–424–8802; in the Washington, DC metropolitan area 202–426–2675) in accordance with the requirements of 40 CFR Part 117 and 40 CFR Part 302 as soon as he or she has knowledge of the discharge;

b. The storm water pollution prevention plan required under Part IV. (Storm Water Pollution Prevention Plans) of this permit must be modified within 14 calendar days of knowledge of the release to: provide a description of

the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed by the permittee to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate; and

c. The permittee shall submit within 14 calendar days of knowledge of the release a written description of: the release (including the type and estimate of the amount of material released), the date that such release occurred, the circumstances leading to the release, and steps to be taken in accordance with paragraph III.B.1.b. (above) of this permit to the appropriate EPA Regional Office at the address provided in Part VI.B. (Reporting: Where to Submit) of this permit.

2. Multiple Anticipated Discharges. Facilities that have more than one anticipated discharge per year containing the same hazardous substance in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 117 or 40 CFR Part 302, that occurs during a 24-hour period, where the discharge is caused by events occurring within the scope of the relevant operating system shall:

a. Submit notifications in accordance with Part III.B.1.b. (above) of this permit for the first such release that occurs during a calendar year (or for the first year of this permit, after submittal of an NOI); and

b. Shall provide in the storm water pollution prevention plan required under Part IV. (Storm Water Pollution Prevention Plans) a written description of the dates on which all such releases occurred, the type and estimate of the amount of material released, and the circumstances leading to the releases. In addition, the plan must be reviewed to identify measures to prevent or minimize such releases and the plan must be modified where appropriate.

3. Spills. This permit does not authorize the discharge of hazardous substances or oil resulting from an onsite spill.

C. Co-located Industrial Activity

In the case where a facility has industrial activities occurring onsite which are described by any of the activities in other sections of Part XI, those industrial activities are considered to be co-located industrial activities. Storm water discharges from co-located industrial activities are authorized by this permit, provided that the permittee complies with any and all additional pollution prevention plan and monitoring requirements from other sections of Part XI applicable to the co-located industrial activity. The operator of the facility shall determine which additional pollution prevention plan and monitoring requirements are applicable to the co-located industrial activity by examining the narrative descriptions of each coverage section (Discharges Covered Under This Section) in Part XI of this permit.

IV. Storm Water Pollution Prevention Plans

A storm water pollution prevention plan shall be developed for each facility covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices and in accordance with the factors outlined in 40 CFR 125.3(d)(2) or (3) as appropriate. The plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

A. Deadlines for Plan Preparation and Compliance

1. Existing Facilities. Except as provided in paragraphs 3., 4., and 5. (below), all existing facilities and new facilities that begin operation on or before [insert date 270 days after permit finalization] shall prepare and implement the plan by [insert date 270 days after permit finalization].

2. New Facilities. Facilities that begin operation after [insert date 270 days after permit finalization] shall prepare and implement the plan prior to submitting the Notice of Intent.

3. Oil and Gas Facilities. Oil and gas exploration, production, processing or treatment facilities that are not required to submit a permit application on or before [insert date 90 days after permit finalization] in accordance with 40 CFR 122.26(c)(1)(iii), but after [insert date 270 days after permit finalization] have a discharge of a reportable quantity of oil or a hazardous substance for which notification is required pursuant to either 40 CFR 110.6 or 40 CFR 302.6, shall prepare and implement the plan on or before the date 60 calendar days after first knowledge of such release.

4. Facilities Switching From the Baseline General Permit to This Permit. Facilities previously subject to the NPDES General Permit for Storm Water Discharges Associated With Industrial Activity (57 FR 41297 or 57 FR 44438) that switch to coverage under this permit shall continue to implement the storm water pollution prevention plan required by that permit. The plan shall be revised as necessary to address requirements under Part XI. of this permit no later than [insert date 270 days after permit finalization]. The revisions made to the plan shall be implemented on or before [insert date 270 days after permit finalization].

5. Facilities Electing Multi-Sector General Permit Upon Expiration of the Baseline General Permit. Facilities electing to obtain coverage under this permit during the period 90 days prior to expiration of the Baseline General Permit shall revise the pollution prevention plan required by that permit as necessary to address requirements under Part X.I. of this permit and implement the revised plan prior to submittal of the NOI.

6. Measures That Require Construction. In cases where construction is necessary to implement measures required by the plan, the plan shall contain a schedule that provides compliance with the plan as expeditiously as practicable, but no later than [insert date 3 years after permit finalization]. Where a construction compliance schedule is included in the plan, the schedule shall include appropriate non-structural and/or temporary controls to be implemented in the affected portion(s) of the facility prior to completion of the permanent control measure.

7. Extensions. Upon a showing of good cause, the Director may establish a later date in writing for preparing and compliance with a plan for a storm water discharge associated with industrial activity.

B. Signature and Plan Review

1. Signature/Location. The plan shall be signed in accordance with Part VII.G. (Signatory Requirements), and be retained onsite at the facility that generates the storm water discharge in accordance with Part VII.P.2. (Retention of Records) of this permit. For inactive facilities, the plan may be kept at the nearest office of the permittee.

2. Availability. The permittee shall make the storm water pollution prevention plan, annual site compliance inspection report, or other information available upon request to the Assistant Administrator for Fisheries for the National Oceanic and Atmospheric

Administration; the U.S. Fisheries and Wildlife Service Regional Director; or authorized representatives of these officials.

3. Required Modifications. The Director, or authorized representative, may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit that are not being met by the plan, and identify which provisions of the plan requires modifications in order to meet the minimum requirements of this part. Within 30 days of such notification from the Director, (or as otherwise provided by the Director), or authorized representative, the permittee shall make the required changes to the plan and shall submit to the Director a written certification that the requested changes have been made.

C. Keeping Plans Current

The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, that has a significant effect on the potential for the discharge of pollutants to the waters of the United States or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part IV.D. (Contents of the Plan) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. New owners shall review the existing plan and make appropriate changes: Amendments to the plan may be reviewed by EPA in the same manner as Part IV.B. (above).

D. Contents of the Plan

The contents of the pollution prevention plan shall comply with the requirements listed in the appropriate section of Part XI. (Specific Requirements for Industrial Activities). Table 2 lists the location of the plan requirements for the respective industrial activities. These requirements are cumulative. If a facility has co-located activities that are covered in more than one section of Part XI., that facility's pollution prevention plan must comply with the requirements listed in all applicable sections of this permit.

TABLE 2.—POLLUTION PREVENTION PLAN REQUIREMENTS

Storm water discharges from	Are subject to pollution prevention plan requirements listed in part
Timber Products Facilities	XI.A.3
Paper and Allied Products Manufacturing Facilities.	XI.B.3
Chemical and Allied Products Manufacturing Facilities.	XI.C.4
Asphalt Paving, Roofing Materials, and Lubricant Manufacturing Facilities.	XI.D.3
Glass, Clay, Cement Concrete and Gypsum Product Manufacturing Facilities.	XI.E.3
Primary Metals Facilities	XI.F.3.
Metal Mines (Ore Mining and Dressing).	XI.G.3
Coal Mines and Coal Mine-Related Facilities.	XI.H.3
Oil or Gas Extraction Facilities	XI.I.3
Mineral Mining and Processing Facilities.	XI.J.3
Hazardous Waste Treatment Storage or Disposal Facilities.	XI.K.3
Landfills and Land Application Sites.	XI.L.3
Automobile Salvage Yards	XI.M.2
Scrap and Waste Recycling Facilities.	XI.N.3
Steam Electric Power Generating Facilities.	XI.O.3
Vehicle Maintenance or Equipment Cleaning areas at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, the United States Postal Service, or Railroad Transportation Facilities.	XI.P.3
Vehicle Maintenance Areas and Equipment Cleaning Areas of Water Transportation Facilities.	XI.Q.3
Ship or Boat Building and Repair Yards.	XI.R.3
Vehicle Maintenance Areas, Equipment Cleaning Areas or From Airport Deicing Operations located at Air Transportation Facilities.	XI.S.3
Wastewater Treatment Works .	XI.T.3
Food and Kindred Products Facilities.	XI.U.3
Textile Mills, Apparel and other Fabric Product Manufacturing Facilities.	XI.V.3
Furniture and Fixture Manufacturing Facilities.	XI.W.3
Printing and Publishing Facilities.	XI.X.3
Rubber and Miscellaneous Plastic Product Manufacturing Facilities.	XI.Y.3
Leather Tanning and Finishing Facilities.	XI.Z.3
Facilities That Manufacture Metal Products including Jewelry, Silverware and Plated Ware.	XI.AA.3
Facilities That Manufacture Transportation Equipment, Industrial or Commercial Machinery.	XI.AB.3
Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods.	XI.AC.3.

E. Special Pollution Prevention Plan Requirements

In addition to the minimum standards listed in Part XI. of this permit (Specific Requirements for Industrial Activities), the storm water pollution prevention plan shall include a complete discussion of measures taken to conform with the following applicable guidelines, other effective storm water pollution prevention procedures, and applicable State rules, regulations and guidelines:

1. Additional Requirements for Storm Water Discharges Associated With Industrial Activity that Discharge Into or Through Municipal Separate Storm Sewer Systems Serving a Population of 100,000 or More. a. In addition to the applicable requirements of this permit, facilities covered by this permit must comply with applicable requirements in municipal storm water management programs developed under NPDES permits issued for the discharge of the municipal separate storm sewer system that receives the facility's discharge, provided the discharger has been notified of such conditions.

b. Permittees that discharge storm water associated with industrial activity through a municipal separate storm sewer system serving a population of 100,000 or more, or a municipal system designated by the Director shall make plans available to the municipal operator of the system upon request.

2. Additional Requirements for Storm Water Discharges Associated With Industrial Activity From Facilities Subject to EPCRA Section 313 Requirements. In addition to the requirements of Part XI. of this permit and other applicable conditions of this permit, storm water pollution prevention plans for facilities subject to

reporting requirements under EPCRA Section 313 for chemicals that are classified as 'Section 313 water priority chemicals' in accordance with the definition in Part X. of this permit, except as provided in paragraph IV.E.2.c.(below), shall describe and ensure the implementation of practices that are necessary to provide for conformance with the following guidelines:

a. In areas where Section 313 water priority chemicals are stored, processed or otherwise handled, appropriate containment, drainage control and/or diversionary structures shall be provided unless otherwise exempted under Part IV.E.2.c. At a minimum, one of the following preventive systems or its equivalent shall be used:

(1) Curbing, culverting, gutters, sewers, or other forms of drainage control to prevent or minimize the potential for storm water runon to come into contact with significant sources of pollutants; or

(2) Roofs, covers or other forms of appropriate protection to prevent storage piles from exposure to storm water and wind.

b. In addition to the minimum standards listed under Part IV.E.2.a. (above) of this permit, except as otherwise exempted under Part IV.E.2.c (below) of this permit, the storm water pollution prevention plan shall include a complete discussion of measures taken to conform with other effective storm water pollution prevention procedures, and applicable State rules, regulations, and guidelines:

(1) Liquid Storage Areas Where Storm Water Comes Into Contact With Any Equipment, Tank, Container, or Other Vessel Used for Section 313 Water Priority Chemicals. (a) No tank or container shall be used for the storage of a Section 313 water priority chemical unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature, etc.

(b) Liquid storage areas for Section 313 water priority chemicals shall be operated to minimize discharges of Section 313 chemicals. Appropriate measures to minimize discharges of Section 313 chemicals may include secondary containment provided for at least the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation, a strong spill contingency and integrity testing plan, and/or other equivalent measures.

(2) Material Storage Areas for Section 313 Water Priority Chemicals Other Than Liquids. Material storage areas for Section 313 water priority chemicals other than liquids that are subject to runoff, leaching, or wind shall incorporate drainage or other control features that will minimize the discharge of Section 313 water priority chemicals by reducing storm water contact with Section 313 water priority chemicals.

(3) Truck and Rail Car Loading and Unloading Areas for Liquid Section 313 Water Priority Chemicals. Truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals shall be operated to minimize discharges of Section 313 water priority chemicals. Protection such as overhangs or door skirts to enclose trailer ends at truck loading/unloading docks shall be provided as appropriate. Appropriate measures to minimize discharges of Section 313 chemicals may include: the placement and maintenance of drip pans (including the proper disposal of materials collected in the drip pans) where spillage may occur (such as hose connections, hose reels and filler nozzles) for use when making and breaking hose connections; a strong spill contingency and integrity testing plan; and/or other equivalent measures.

(4) Areas Where Section 313 Water Priority Chemicals Are Transferred, Processed, or Otherwise Handled. Processing equipment and materials handling equipment shall be operated so as to minimize discharges of Section 313 water priority chemicals. Materials used in piping and equipment shall be compatible with the substances handled. Drainage from process and materials handling areas shall minimize storm water contact with Section 313 water priority chemicals. Additional protection such as covers or guards to prevent exposure to wind, spraying or releases from pressure relief vents from causing a discharge of Section 313 water priority chemicals to the drainage system shall be provided as appropriate. Visual inspections or leak tests shall be provided for overhead piping conveying Section 313 water priority chemicals without secondary containment.

(5) Discharges From Areas Covered by Paragraphs (1), (2), (3), or (4). (a) Drainage from areas covered by paragraphs (1), (2), (3), or (4) of this part should be restrained by valves or other positive means to prevent the discharge of a spill or other excessive leakage of Section 313 water priority chemicals. Where containment units are employed, such units may be emptied by pumps or ejectors; however, these shall be manually activated.

(b) Flapper-type drain valves shall not be used to drain containment areas. Valves used for the drainage of containment areas should, as far as is practical, be of manual, open-and-closed design.

(c) If facility drainage is not engineered as above, the final discharge of all in-facility storm sewers shall be equipped to be equivalent with a diversion system that could, in the event of an uncontrolled spill of Section 313 water priority chemicals, return the spilled material to the facility.

(d) Records shall be kept of the frequency and estimated volume (in gallons) of discharges from containment areas.

(6) Facility Site Runoff Other Than From Areas Covered By (1), (2), (3), or (4). Other areas of the facility (those not addressed in paragraphs (1), (2), (3), or (4)), from which runoff that may contain Section 313 water priority chemicals or spills of Section 313 water priority chemicals could cause a discharge shall incorporate the necessary drainage or other control features to prevent discharge of spilled or improperly disposed material and ensure the mitigation of pollutants in runoff or leachate.

(7) Preventive Maintenance and Housekeeping. All areas of the facility shall be inspected at specific intervals identified in the plan for leaks or conditions that could lead to discharges of Section 313 water priority chemicals or direct contact of storm water with raw materials, intermediate materials, waste materials or products. In particular, facility piping, pumps, storage tanks and bins, pressure vessels, process and material handling equipment, and material bulk storage areas shall be examined for any conditions or failures that could cause a discharge. Inspection shall include examination for leaks, wind blowing, corrosion, support or foundation failure, or other forms of deterioration or noncontainment. Inspection intervals shall be specified in the plan and shall be based on design and operational experience. Different areas may require different inspection intervals. Where a leak or other condition is discovered that may result in significant releases of Section 313 water priority chemicals to waters of the United States, action to stop the leak or otherwise prevent the significant release of Section 313 water priority chemicals to waters of the United States shall be immediately taken or the unit or process shut down until such action can be taken. When a leak or noncontainment of a Section 313 water priority chemical has occurred, contaminated soil, debris, or other material must be promptly removed and disposed in accordance with Federal, State, and local requirements and as described in the plan.

(8) Facility Security. Facilities shall have the necessary security systems to prevent accidental or intentional entry that could cause a discharge. Security systems described in the plan shall address fencing, lighting, vehicular traffic control, and securing of equipment and buildings.

(9) Training. Facility employees and contractor personnel that work in areas where Section 313 water priority chemicals are used or stored shall be trained in and informed of preventive measures at the facility. Employee training shall be conducted at intervals specified in the plan, but not less than once per year. Training shall address: pollution control laws and regulations, the storm water pollution prevention plan and the particular features of the facility and its operation that are designed to minimize discharges of Section 313 water priority chemicals. The plan shall designate a person who is accountable for spill prevention at the facility and who will set up the necessary spill emergency procedures and reporting requirements so that spills and emergency releases of Section 313 water priority chemicals can be isolated and contained before a discharge of a Section 313 water priority chemical can occur. Contractor or temporary personnel shall be informed of facility operation and design features in order to prevent discharges or spills from occurring.

c. Facilities subject to reporting requirements under EPCRA Section 313 for chemicals that are classified as "Section 313 water priority chemicals" in accordance with the definition in Part X. of this permit that are handled and stored onsite only in gaseous or non-soluble liquid or solid (at atmospheric pressure and temperature) forms may provide a certification as such in the pollution prevention plan in lieu of the additional requirements in Part IV.E.2. Such certification shall include a narrative description of all water priority chemicals and the form in which they are handled and stored, and shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

d. The storm water pollution prevention plan shall be certified in accordance with Section VII.G (Signatory Requirements) of this permit.

3. Additional Requirements for Salt Storage. Storage piles of salt used for deicing or other commercial or industrial purposes and that generate a storm water discharge associated with industrial activity that is discharged to waters of the United States shall be enclosed or covered to prevent exposure to precipitation, except for exposure resulting from adding or removing materials from the pile. Dischargers shall demonstrate compliance with this provision as expeditiously as practicable, but in no event later than [insert date 3 years after permit finalization]. Dischargers with previous coverage under the Baseline general permit for storm water shall be compliant with this provision upon submittal of the NOI. Piles do not need to be enclosed or covered where storm water from the pile is not discharged to waters of the United States.

4. Consistency With Other Plans. Storm water pollution prevention plans may reference the existence of other plans for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under Section 311 of the CWA or Best Management Practices (BMP) Programs otherwise required by an NPDES permit for the facility as long as such requirement is incorporated into the storm water pollution prevention plan.

V. Numeric Effluent Limitations

A. Discharges Associated With Specific Industrial Activity

Numeric effluent limitations for storm water discharges associated with a specific industrial activity are described in Part XI. of this permit.

B. Coal Pile Runoff

Any discharge composed of coal pile runoff shall not exceed a maximum concentration for any time of 50 mg/L total suspended solids. Coal pile runoff shall not be diluted with storm water or other flows in order to meet this limitation. The pH of such discharges shall be within the range of 6.0 to 9.0. Runoff from coal piles located at steam electric generating facilities shall be in compliance with these limits upon submittal of the Notice of Intent (NOI). Runoff from coal piles at all other types of facilities shall comply with these limitations as expeditiously as practicable, but in no case later than [insert date 3 years after permit finalization]. Dischargers with previous coverage under the Baseline general permit for storm water shall be compliant with this provision upon submittal of the NOI. Any untreated overflow from facilities designed, constructed and operated to treat the volume of coal pile runoff that is associated with a 10-year, 24-hour rainfall event shall not be subject to the 50 mg/L limitation for total suspended solids.

VI. Monitoring and Reporting Requirements

A. Monitoring Requirements

1. Limitations on Monitoring Requirements. a. Except as required by paragraph b., only those facilities with discharges or activities identified in Part VI.C. and Part XI. are required to conduct sampling of their storm water discharges associated with industrial activity. Monitoring requirements under parts VI.C. and XI. are additive. Facilities with discharges or activities described in more than one monitoring section are subject to all applicable monitoring requirements from each section.

b. The Director can provide written notice to any facility otherwise exempt from the sampling requirements of Parts VI.C. and XI. that it shall conduct discharge sampling for a specific monitoring frequency for specific parameters.

B. Reporting: Where To Submit

1. Location. Signed copies of discharge monitoring reports required under Parts XI. and VI.C., individual permit applications, and all other reports required herein, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office:

a. CT, MA, ME, NH, RI, VT
EPA, Region I, Water Management Division, (WCP), Storm Water Staff, JFK Federal Building, Boston, MA 02203

b. PR
EPA, Region II, Water Management Division, (2WM–WPC), Storm Water Staff, 290 Broadway, New York, NY 10007–1866

c. DE, DC
EPA, Region III, Water Management Division, (3WM55), Storm Water Staff, 841 Chestnut Building, Philadelphia, PA 19107

d. FL
EPA, Region IV, Water Management Division, Permits Section (WPEB–7), 345 Courtland Street, NE., Atlanta, GA 30365

e. LA, NM (except see Region IX for Navajo lands), OK, TX
EPA, Region VI, Enforcement and Compliance Assurance Division (GEN–WC), EPA SW MSGP, First Interstate Bank Tower at Fountain Place, P.O. Box 50625, Dallas, TX 75205

f. AZ, CA, NV, Johnson Atoll, Midway Island, Wake Island, the Goshute Reservation in UT and NV, the Navajo Reservation in UT, NM, and AZ, the Fort McDermitt Reservation

in OR, the Duck Valley Reservation in NV and ID

EPA, Region IX, Water Management Division, (W–5–3), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105

g. AK Indian Reservations, ID (except see Region IX for Duck Valley Reservation lands), OR (except see Region IX for Fort McDermitt Reservation lands), WA

EPA, Region X, Water Division, (WD–134), Storm Water Staff, 1200 Sixth Avenue, Seattle, WA 98101

For each outfall, one Discharge Monitoring Report form must be submitted per storm event sampled.

2. Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with Part VI.B. (Reporting: Where to Submit), facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) or a municipal system designated by the Director must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in Part XI. Facilities not required to report monitoring data under Part XI. and facilities that are not otherwise required to monitor their discharges, need not comply with this provision.

C. Special Monitoring Requirements for Coal Pile Runoff

During the period beginning on the effective date and lasting through the expiration date of this permit, permittees with storm water discharges containing coal pile runoff shall monitor such storm water for: pH and TSS (mg/l) at least annually (1 time per year). Permittees with discharges containing coal pile runoff must report in accordance with Part V.B (Numeric Effluent Limitations) and Part VI.B. (Reporting: Where to Submit). In addition to the parameters listed above, the permittee shall provide the date and duration (in hours) of the storm event(s) samples; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event samples and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge samples.

1. Sample Type. For discharges containing coal pile runoff from holding ponds or other impoundments with a retention period greater than 24 hours (estimated by dividing the volume of the detention pond by the estimated volume of water discharged during the 24 hours previous to the time that the sample is collected), a minimum of one grab sample may be taken. For all other discharges containing coal pile runoff, data shall be reported for a grab sample. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

2. Sampling Waiver. When a discharger is unable to collect samples of coal pile runoff due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit this data along with the data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

3. Representative Discharge. When a facility has two or more outfalls containing coal pile runoff that, based on a consideration of the other industrial activity, and significant materials, and upon management practices and activities within the area drained by the outfall, and the permittee reasonably believes substantially identical effluents are discharged, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40 percent), medium (40 to 65 percent) or high (above 65 percent)) shall be provided in the plan. Permittees required to submit monitoring information under Part VIII. of this permit shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report. This representative discharge provision is not applicable to storm water discharges from coal piles regulated under the national effluent limitations guidelines.

4. Alternative Certification. Facilities with storm water discharges containing coal pile runoff may not submit alternative certification in lieu of the required monitoring data.

5. When to Submit. Permittees with discharges containing coal pile runoff shall submit monitoring results annually no later than the 28th day of [insert month following permit finalization].

VII. Standard Permit Conditions

A. Duty to Comply

1. Permittee's Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. Penalties for Violations of Permit Conditions.

a. Criminal.

(1) Negligent Violations. The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(2) Knowing Violations. The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment. The CWA provides that any person who

knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

(4) False Statement. The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than 2 years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309(c)(4) of the Clean Water Act).

b. Civil Penalties. The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $25,000 per day for each violation.

c. Administrative Penalties. The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

(1) Class I Penalty. Not to exceed $10,000 per violation nor shall the maximum amount exceed $25,000.

(1) Class II Penalty. Not to exceed $10,000 per day for each day during which the violation continues nor shall the maximum amount exceed $125,000.

B. Continuation of the Expired General Permit

This permit expires on [insert date 5 years after permit finalization]. However, an expired general permit continues in force and effect until a new general permit is issued. Permittees that choose, or are required, to obtain an individual permit must submit an application (Forms 1 and 2F and any other applicable forms) 180 days prior to expiration of this permit. Permittees that are eligible and choose to be covered by a new general permit must submit an NOI by the date specified in that permit.

C. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

E. Duty to Provide Information

The permittee shall furnish to the Director, within a time specified by the Director, any information that the Director may request to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

F. Other Information

When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the NOI or in any other report to the Director, he or she shall promptly submit such facts or information.

G. Signatory Requirements

All Notices of Intent, Notices of Termination, storm water pollution prevention plans, reports, certifications or information either submitted to the Director (and/or the operator of a large or medium municipal separate storm sewer system), or that this permit requires be maintained by the permittee, shall be signed.

1. Signature. All reports required by the permit and other information requested by the Director shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, State, Federal, or other public facility: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

2. Authorized Representative. All reports required by the permit and other information requested by the Director shall be signed by a person described in Section VII.G.1. above or be signed by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described above and submitted to the Director.

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

c. Changes to Authorization. If an authorization under paragraph VII.G.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new NOI satisfying the requirements of paragraph II.B. (Contents of NOI) must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing documents under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

H. Penalties for Falsification of Reports

Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both.

I. Penalties for Falsification of Monitoring Systems

The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by fines and imprisonment described in Section 309 of the CWA.

J. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the CWA or Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

K. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

L. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

M. Requiring an Individual Permit or an Alternative General Permit

1. Director Designation. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. The Director may require any owner or operator authorized to discharge under this permit to apply for an individual NPDES permit only if the owner or operator has been notified in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the owner or operator to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Individual permit applications shall be submitted to the address of the appropriate Regional Office shown in Part VI.B. (Reporting: Where to Submit) of this permit. The Director may grant additional time to submit the application upon request of the applicant. If an owner or operator fails to submit in a timely manner an individual NPDES permit application as required by the Director, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified for application submittal.

2. Individual Permit Application. Any owner or operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The owner or operator shall submit an individual application (Form 1 and Form 2F) with reasons supporting the request to the Director. Individual permit applications shall be submitted to the address of the appropriate Regional Office shown in Part VI.B. of this permit. The request may be granted by the issuance of any individual permit or an alternative general permit if the reasons cited by the owner or operator are adequate to support the request.

3. Individual/Alternative General Permit Issuance. When an individual NPDES permit is issued to an owner or operator otherwise subject to this permit, or the owner or operator is authorized for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

N. State/Environmental Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

O. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

P. Monitoring and Records

1. Representative Samples/ Measurements. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Retention of Records.

a. The permittee shall retain records of all monitoring information, copies of all reports required by this permit, and records of all data used to complete the application of this permit for a period of at least three (3) years from the date of sample, measurement, evaluation or inspection, report, or application. This period may be extended by request of the Director at any time. Permittees must submit any such records to the Director upon request.

b. The permittee shall retain the pollution prevention plan developed in accordance with Parts IV. and XI. of this permit until a date 3 years after the last modification or amendment is made to the plan, and at least 1 year after coverage under this permit terminates.

3. Records Contents. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The initials or name(s) of the individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The time(s) analyses were initiated;

e. The initials or name(s) of the individual(s) who performed the analyses;

f. References and written procedures, when available, for the analytical techniques or methods used; and

g. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

4. Approved Monitoring Methods. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

Q. Inspection and Entry

The permittee shall allow the Director or an authorized representative of EPA, the State environmental agency, or, in the case of a facility that discharges through a municipal separate storm sewer, an authorized representative of the municipal operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to: enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit; have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

R. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

S. Bypass of Treatment Facility

1. Notice.

a. Anticipated Bypass. If a permittee subject to the numeric effluent limitations of Parts V. and XI. of this permit knows in advance of the need for a bypass, he or she shall submit prior notice, if possible, at least 10 days before the date of the bypass; including an evaluation of the anticipated quality and effect of the bypass.

b. Unanticipated Bypass. The permittee subject to the numeric effluent limitations of Parts V. and XI. of this permit shall submit notice of an unanticipated bypass. Any information regarding the unanticipated bypass shall be provided orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee became aware of the circumstances. The written submission shall contain a description of the bypass and its cause; the period of the bypass; including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

2. Prohibition of Bypass.

a. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass. Unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee should, in the exercise of reasonable engineering judgement, have installed adequate backup equipment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices of the bypass.

b. The Director may approve an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed in Part VII.S.2.a.

T. Upset Conditions

1. Affirmative Defense. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based numeric effluent limitations in Parts V. and XI. of this permit if the requirements of paragraph 2 below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. Required Defense. A permittee who wishes to establish the affirmative defense of an upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

a. An upset occurred and that the permittee can identify the specific cause(s) of the upset:

b. The permitted facility was at the time being properly operated; and

c. The permittee provided oral notice of the upset to EPA within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee became aware of the circumstances. The written submission shall contain a description of the upset and its cause; the period of the upset; including exact dates and times, and if the upset has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the upset.

3. Burden of Proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

VIII. Reopener Clause

A. Potential or Realized Impacts on Water Quality

If there is evidence indicating potential or realized impacts on water quality or on a listed endangered species due to any storm water discharge associated with industrial activity covered by this permit, the owner or operator of such discharge may be required to obtain an individual permit or an alternative general permit in accordance with Part VII.M. (Requiring an Individual Permit or an Alternative General Permit) of this permit or the permit may be modified to include different limitations and/or requirements.

B. Applicable Regulations

Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64, and 124.5.

IX. Termination of Coverage

A. Notice of Termination

Where all storm water discharges associated with industrial activity that are authorized by this permit are eliminated, or where the operator of storm water discharges associated with industrial activity at a facility changes, the operator of the facility may submit a Notice of Termination that is signed in accordance with Part VII.G. (Signatory Requirements) of this permit. The Notice of Termination shall include the following information:

1. Facility Information. Name, mailing address, and location of the facility for which the notification is submitted.Describe the location of the approximate center of the site in terms of the latitude and longitude to the nearest 15 seconds, or the section,

township and range to the nearest quarter section;

2. Operator Information. The name, address, and telephone number of the operator addressed by the Notice of Termination;

3. Permit Number. The NPDES permit number for the storm water discharge associated with industrial activity identified by the Notice of Termination;

4. Reason for Termination. An indication of whether the storm water discharges associated with industrial activity have been eliminated or the operator of the discharges has changed; and

5. Certification. The following certification signed in accordance with Part VII.G. (Signatory Requirements) of this permit:

> I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by an NPDES general permit have been eliminated or that I am no longer the operator of the industrial activity. I understand that by submitting this notice of termination, that I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by an NPDES permit. I also understand that the submittal of this notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

B. Addresses

All Notices of Termination are to be sent, using the form provided by the Director (or a photocopy thereof),[2] to the Director of the NPDES program at the following address: Storm Water Notice of Termination (4203), 401 M Street, S.W., Washington, D.C. 20460.

X. Definitions

Best Management Practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

Coal pile runoff means the rainfall runoff from or through any coal storage pile

Co-located industrial activity means when a facility has industrial activities being conducted onsite that are described under more than one of the coverage sections of Part XI in this permit (Discharges Covered Under This Section). Facilities with co-located industrial activities shall comply with all applicable monitoring and pollution prevention plan requirements of each section in which a co-located industrial activity is described.

CWA means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972).

Commercial Treatment and Disposal Facilities means facilities that receive, on a commercial basis, any produced hazardous waste (not their own) and treat or dispose of those wastes as a service to the generators. Such facilities treating and/or disposing exclusively residential hazardous wastes are not included in this definition.

Director means the Regional Administrator or an authorized representative.

Flow-weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Landfill means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile.

Land application unit means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for treatment or disposal.

Large and medium municipal separate storm sewer system means all municipal separate storm sewers that are either:

(i) located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR Part 122); or

(ii) located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR Part 122); or

(iii) owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.

NOT means notice of termination (see Part IX.A. of this permit.)

Point source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Section 313 water priority chemical means a chemical or chemical categories that: (1) Are listed at 40 CFR 372.65 pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986); (2) are present at or above threshold levels at a facility subject to EPCRA Section 313 reporting requirements; and (3) meet at least one of the following criteria: (i) are listed in Appendix D of 40 CFR Part 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances); (ii) are listed as a hazardous substance pursuant to Section 311(b)(2)(A) of the CWA at 40 CFR 116.4; or (iii) are pollutants for which EPA has published acute or chronic water quality criteria. See Addendum A of this permit. This addendum was revised based on final rulemaking EPA published in the **Federal Register** November 30, 1994.

Significant materials includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of CERCLA; any chemical the facility is required to report pursuant to EPCRA Section 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

Significant spills includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see 40 CFR 302.4).

Storm water means storm water runoff, snow melt runoff, and surface runoff and drainage.

[2] A copy of the approved NOT form is provided in Addendum C of this notice.

Storm water associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR Part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in paragraph (xi) of this definition, the term includes only storm water discharges from all areas (except access roads and rail lines) listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in paragraphs (i) to (xi) of this definition) include those facilities designated under 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this subsection:

(i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards that are exempted under category (xi) of this definition);

(ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;

(iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of noncoal mining operations that have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but that have an identifiable owner/operator;

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;

(v) Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221–25), 43, 44, 45 and 5171 that have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or that are otherwise identified under paragraphs (i) to (vii) or (ix) to (xi) of this subsection are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR Part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and that are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR Part 503;

(x) Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than 5 acres of total land area that are not part of a larger common plan of development or sale;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221–25, (and that are not otherwise included within categories (i) to (x)).[3]

Time-weighted composite means a composite sample consisting of a mixture of equal volume aliquots collected at a constant time interval.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with the numeric effluent limitations of Parts V. and XI. of this permit because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Waste pile means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

Waters of the United States means:

[3] On June 4, 1992, the United States Court of Appeals for the Ninth Circuit remanded the exclusion for manufacturing facilities in category (xi) that do not have materials or activities exposed to storm water to the EPA for further rulemaking. (Nos. 90–70671 and 91–70200.)

a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;

b. All interstate waters, including interstate wetlands;

c. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

1. That are or could be used by interstate or foreign travelers for recreational or other purposes;

2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

3. That are used or could be used for industrial purposes by industries in interstate commerce;

d. All impoundments of waters otherwise defined as waters of the United States under this definition;

e. Tributaries of waters identified in paragraphs (a) through (d) of this definition;

f. The territorial sea; and

g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

(Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the United States.)

Specific Requirements for Industrial Activities

A. Storm Water Discharges Associated With Industrial Activity From Timber Products Facilities

1. Discharges Covered Under This Section. The requirements listed under this section shall apply to storm water discharges from the following activities: establishments [generally classified under Standard Industrial Classification (SIC) Major Group 24] that are engaged in cutting timber and pulpwood, merchant sawmills, lath mills, shingle mills, cooperage stock mills, planing mills, and plywood and veneer mills engaged in producing lumber and wood basic materials; and establishments engaged in wood preserving or in manufacturing finished articles made entirely of wood or related materials, except for wood kitchen cabinet manufacturers (SIC Code 2434), which are addressed under Part XI.W. of this permit.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. *Special Conditions.*

a. *Prohibition of Non-storm Water Discharges.*

(1) Discharges of boiler blowdown and water treatment wastewaters, noncontact and contact cooling waters, wash down waters from treatment equipment, and storm water that has come in contact with areas where spraying of chemical formulations designed to provide surface protection, to waters of the United States, or through municipal separate storm sewer systems are not authorized by this permit. The operators of such discharges must obtain coverage under a separate NPDES discharge permit.

(2) In addition to the discharges described in part III.A.2., the following non-storm water discharges may be authorized by this permit provided the non-storm water component of the discharge is in compliance with paragraph XI.A.3.a.(3)(g)(i) (Measures and Controls for Non-storm Water Discharges): discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage.

3. Storm Water Pollution Prevention Plan Requirements.

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources that may reasonably be expected to add significant amounts of pollutants to storm water discharges or that may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials that may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating the location of outfalls covered by the permit, the types of discharges contained in the drainage areas of the outfalls, an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.A.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; material handling areas; locations used for the treatment, storage, or disposal of wastes; liquid storage tanks; processing areas; treatment chemical storage areas; treated wood and residue storage areas; wet decking areas; dry decking areas; untreated wood and residue storage areas; and treatment equipment storage areas.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants that are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative

description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives. The inventory of exposed materials shall include, but shall not be limited to the significant materials stored exposed to storm water and material management practices employed that were listed for the facility in the approved group application. Where information is available, facilities that have used chlorophenolic, creosote, or chromium-copper-arsenic formulations for wood surface protection or wood preserving activities onsite in the past should identify in the inventory the following: areas where contaminated soils, treatment equipment, and stored materials still remain and management practices employed to minimize the contact of these materials with storm water runoff.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any specific pollutant or pollutant parameter (e.g., total suspended solids, biochemical oxygen demand, chemical oxygen demand, oil and grease, arsenic, copper, chromium, pentachlorophenol, other specific metals, toxicity, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water best management practices (BMPs) and controls appropriate for the facility and implement such controls. The appropriateness of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following areas of the site: log, lumber and other wood product storage areas; residue storage areas, loading and unloading areas; material handling areas; chemical storage areas; and equipment/vehicle maintenance, storage and repair areas. Facilities that surface protect and/or preserve wood products should address specific BMPs for wood surface protection and preserving activities. The pollution prevention plan should address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas that may contribute pollutants to storm water discharges in a clean, orderly manner. Good housekeeping measures in storage areas, loading and unloading areas, and material handling areas should be designed to: 1) limit the discharge of wood debris; 2) minimize the leachate generated from decaying wood materials; and 3) minimize the generation of dust.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems. Periodic removal of debris from ditches, swales, diversions, containment basins, sediment ponds and infiltration measures should be performed to limit discharges of solids and to maintain the effectiveness of the controls.

(c) Spill Prevention and Response Procedures—Areas where potential spills that can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a cleanup should be available to personnel. Response schedules should be developed to limit tracking of spilled materials to other areas of the site. Leaks or spills of wood surface protection or preservation chemicals shall be cleaned up immediately in accordance with applicable RCRA regulations at 40 CFR Part 264 and 40 CFR Part 265.

(d) Inspections—In addition to or as part of the comprehensive site evaluation required under paragraph XI.A.3.a.(4) of this section, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. Operators of facilities are required to conduct quarterly visual inspections of BMPs. The inspections shall include: 1) an assessment of the integrity of storm water discharge diversions, conveyance systems, sediment control and collection systems, and containment structures; 2) visual inspection of sediment and erosion BMPs to determine if soil erosion has occurred; and 3) visual inspections of storage areas and other potential sources of pollution for evidence of actual or potential pollutant discharges of contaminated storm water.

Material handling, and unloading and loading areas should be inspected daily whenever industrial activities occur in those areas. If no activities are occurring, no inspection is required.

Inspections at processing areas, transport areas, and treated wood storage areas of facilities performing wood surface protection and preservation activities should be performed monthly to assess the usefulness of practices in minimizing drippage of treatment chemicals on unprotected soils and in areas that will come in contact with storm water discharges.

A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management

at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit that receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.A.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2. (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities that begin to discharge storm water associated with industrial activity after [Insert date of permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States that are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion. When developing the plan, the following areas of the site should be considered: loading and unloading areas, access roads, material handling areas, storage areas, and any other areas where heavy equipment and vehicle use is prevalent. The following erosion and sediment controls shall be considered to minimize the discharge of sediments from the site: stabilization measures such as seeding, mulching, contouring, porous pavement, paving and sodding or its equivalent and structural measures such as sediment traps and silt fences or other equivalent measures.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those that control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.A.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices or other equivalent measures.

(4) Comprehensive Site Compliance Evaluation. Personnel knowledgeable about storm water management as it relates to the facility shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall include the following:

(a) Areas contributing to a storm water discharge associated with industrial activity such as loading/unloading areas, material handling areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas, treatment chemical storage areas, treated wood and residue storage areas, wet decking areas, dry decking areas, untreated wood and residue storage areas, and treatment equipment storage areas shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.A.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.A.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.A.3.a.(4)(b) (above) of the permit shall be made and retained as part of the

storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations. There are no additional numeric effluent limitations beyond those described in Part V.B. of this permit.

5. Monitoring and Reporting Requirements.

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with timber product facilities must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Timber product facilities are required to monitor their storm water discharges for the pollutants of concern listed in the appropriate table (Tables A–1, A–2, A–3 or A–4). Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Tables A–1, A–2, A–3 and A–4 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE A–1.—MONITORING REQUIREMENTS FOR GENERAL SAWMILLS AND PLANNING MILLS FACILITIES

Pollutants of concern	Monitoring cut-off concentration
Chemical Oxygen Demand	120.0 mg/L
Total Suspended Solids	100 mg/L
Total Recoverable Zinc, ...	0.065 mg/L

TABLE A–2.—MONITORING REQUIREMENTS FOR WOOD PRESERVING FACILITIES

Pollutant of concern	Monitoring cut-off concentration
Total Recoverable Arsenic	0.16854 mg/L
Total Recoverable Copper	0.0636 mg/L

TABLE A–3.—MONITORING FOR LOG STORAGE AND HANDLING FACILITIES

Pollutant of concern	Monitoring cut-off concentration
Total Suspended Solids	100 mg/L

TABLE A–4.—MONITORING REQUIREMENTS FOR HARDWOOD DIMENSION AND FLOORING MILLS; SPECIAL PRODUCTS SAWMILLS, NOT ELSEWHERE CLASSIFIED; MILLWORK, VENEER, PLYWOOD AND STRUCTURAL WOOD; WOOD CONTAINERS; WOOD BUILDINGS AND MOBILE HOMES; RECONSTITUTED WOOD PRODUCTS; AND WOOD PRODUCTS FACILITIES NOT ELSEWHERE CLASSIFIED

Pollutants of concern	Monitoring cut-off concentration
Chemical Oxygen Demand	120 mg/L
Total Suspended Solids	100 mg/L

(1) Monitoring Periods. Facilities required to perform monitoring shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next monitoring period and submit the data along with the data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous or inaccessible conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table A–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph (*b*) below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*b*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

(b). Reporting. Permittees shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet to this permit.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), facilities engaged in wood preservation and/or surface protection with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Quarterly Visual Examination of Storm Water Quality. All timber products facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) must be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examination shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an

estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

B. Storm Water Discharges Associated With Industrial Activity From Paper And Allied Products Manufacturing Facilities

1. Discharges Covered Under This Section. The requirements listed under this section shall apply to storm water discharges from the following activities: facilities engaged in the manufacture of pulps from wood and other cellulose fibers and from rags; the manufacture of paper and paperboard into converted products, such as paper coated off the paper machine, paper bags, paper boxes and envelopes; and establishments primarily engaged in manufacturing bags of plastic film and sheet. These facilities are commonly identified by Standard Industrial Classification (SIC) Major Group 26.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions.

a. Prohibition of Non-storm Water Discharges. There are no additional requirements beyond those in Part III.A. of this permit.

3. Storm Water Pollution Prevention Plan Requirements.

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources that may reasonably be expected to add significant amounts of pollutants to storm water discharges or that may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials that may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.B.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes and wastewaters, locations used for the treatment, filtration, or storage of water supplies, liquid storage tanks, processing areas, and storage areas. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants that are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives. The inventory of exposed materials shall include, but shall not be limited to the significant materials stored exposed to storm water and material management practices employed that were listed for the facility in the approved group application.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water

discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices, and wastewater treatment activities to include sludge drying, storage, application or disposal activities. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas that may contribute pollutants to storm water discharges in a clean, orderly manner. The plan shall describe procedures performed to minimize contact of materials with storm water runoff. Examples include cleaning of lots and roofs that collect debris; routine cleaning of wastewater treatment, and other waste disposal (such as sludge handling) locations.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) *Spill Prevention and Response Procedures*—Areas where potential spills that can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit that receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph (iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2. of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities that begin to discharge storm water associated with industrial activity after [Insert date of permit issuance], 270 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States that are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those that control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see Part XI.B.3.a.(2)

of this permit (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices; reuse of collected storm water (such as for a process or as an irrigation source); inlet controls (such as oil/water separators); snow management activities; infiltration devices, and wet detention/retention devices; screens or fences used to protect dust and particulate collection activities from wind or to minimize the effects of wind on material loading and storage, and processing activities to eliminate or reduce windblown or airborne pollutants; secondary containment of storage areas such as berms and dikes; diversionary structures to direct storm water away from areas of potential contamination; and tarpaulins, roofs, or other coverings of outdoor storage or industrial activities or other equivalent measures.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity such as material storage, handling, and disposal activities shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with Part XI.B.3.a.(2) of this permit (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with Part XI.B.3.a.(3) of this permit (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph (4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B. of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements.

During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with paperboard mills must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Paperboard mills are required to monitor their storm water discharges for the pollutant of concern listed in Table B–1 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table B–1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE B–1.—MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Chemical Oxygen Demand	120 mg/L

(1) Monitoring Periods. Paperboard mills shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table B–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph (*b*) below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (b) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b. Reporting. Permittees with paperboard mills shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report Form must be submitted per storm event completed. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), paperboard mills with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated period [described in (1), below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual will carry out the collection and examination of discharges for the life of the permit.

(3) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse

weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(4) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

(5) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(6) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

C. Storm Water Discharges Associated With Industrial Activity From Chemical and Allied Products Manufacturing Facilities

1. Discharges Covered Under This Section

The requirements listed under this section shall apply to storm water discharges associated with industrial activity from a facility engaged in manufacturing the following products and generally described by the SIC code shown:

a. Basic industrial inorganic chemicals (including SIC 281).

b. Plastic materials and synthetic resins, synthetic rubbers, and cellulosic and other humanmade fibers, except glass (including SIC 282).

c. Soap and other detergents and in producing glycerin from vegetable and animal fats and oils; specialty cleaning, polishing, and sanitation preparations; surface active preparations used as emulsifiers, wetting agents, and finishing agents, including sulfonated oils; and perfumes, cosmetics, and other toilet preparations (including SIC 284).

d. Paints (in paste and ready-mixed form); varnishes; lacquers; enamels and shellac; putties, wood fillers, and sealers; paint and varnish removers; paint brush cleaners; and allied paint products (including SIC 285).

e. Industrial organic chemicals (including SIC 286).

f. Nitrogenous and phosphatic basic fertilizers, mixed fertilizer, pesticides, and other agricultural chemicals (including SIC 287).

g. Industrial and household adhesives, glues, caulking compounds, sealants, and linoleum, tile, and rubber cements from vegetable, animal, or synthetic plastics materials; explosives; printing ink, including gravure ink, screen process ink, and lithographic; miscellaneous chemical preparations, such as fatty acids, essential oils, gelatin (except vegetable), sizes, bluing, laundry sours, writing and stamp pad ink, industrial compounds, such as boiler and heat insulating compounds, metal, oil, and water treatment compounds, waterproofing compounds, and chemical supplies for foundries (including facilities with SIC 289).

h. Ink and paints, including china painting enamels, india ink, drawing ink, platinum paints for burnt wood or leather work, paints for china painting, artists' paints and artists' water colors (SIC 3952, limited to those listed).

i. Co-located Industrial Activities. When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Discharges Not Covered By This Section

a. Storm water discharges from drug manufacturing facilities and other establishments classified as SIC Code 283.

3. Special Conditions

a. Prohibition of Non-storm Water Discharges. In addition to those non-storm water discharges prohibited under section III.A.2, this section does not authorize the discharge of:

(1) Inks, paints, or substances (hazardous, nonhazardous, etc.) resulting from an onsite spill, including materials collected in drip pans.

(2) Washwaters from material handling and processing areas. This includes areas where containers, equipment, industrial machinery, and any significant materials are exposed to storm water.

(3) Washwaters from drum, tank, or container rinsing and cleaning.

4. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team. The team will be responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources of pollutants to storm water discharges and sources of discharges of pollutants during dry weather. Each plan shall

identify all activities and materials that may be pollutant sources. Each plan shall include, at a minimum:

(a) Drainage and Site Plan—A site map shall be developed for the facility. This map shall include, at a minimum: the location of all structures (manufacturing buildings, garages, etc.), impervious areas, the location of each storm water outfall and/or connection to municipal storm sewer; types of discharges included in each discharge; an outline of the portions of the drainage area of each outfall within the facility boundaries and a prediction of the direction of flow in each area; each existing structural control measure to reduce pollutants in storm water runoff; surface water bodies; locations where materials are exposed to precipitation; and locations where major spills or leaks identified under Part XI.C.4.a.(2)(c) (below) of this permit have occurred. The map shall also indicate the locations of the following outdoor activities: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; locations used for the treatment, storage or disposal of wastes; storage tanks and other containers; processing and storage areas; access roads, rail cars and tracks; the location of transfer of substances in bulk; and machinery.

(b) Inventory of Exposed Materials and Management Practices—An inventory of the types of materials handled at the site that may be exposed to precipitation shall be collected. Such inventory shall include: a narrative description of materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and leaks of material that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance after the date of 3 years prior to the date of submission of a Notice of Intent (NOI) to be covered under this permit. The list shall be updated as appropriate to include any significant spills and leaks during the term of the permit.

(d) Sampling Data—A summary of existing storm water sampling data describing pollutants discharged from the facility, including a summary of sampling data collected during the term of this permit. In addition, the report of monitoring data that is submitted to EPA pursuant to Part VI. of this permit shall be maintained with the pollution prevention plan.

(e) Risk Identification and Summary of Potential Pollutant Sources.

(i) A narrative description of the potential pollutant sources from the following: loading, unloading, and transfer of chemicals; outdoor storage of salt, pallets, coal, drums, containers, fuels, or other materials; outdoor manufacturing or processing activities; significant dust or particulate generating processes; fueling stations; vehicle and equipment maintenance and/or cleaning areas; locations used for the treatment, storage or disposal (on or off site) of wastes and wastewaters; storage tanks and other containers; processing and storage areas; access roads, rail cars and tracks; the location of transfer of substances in bulk; and machinery.

(ii) The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., chemical oxygen demand, etc.) of concern shall be identified.

(iii) Factors to consider include: quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills. In addition, flows with a significant potential for causing erosion shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a reasonable schedule for implementing such controls:

(a) Nonstructural Controls.

(i) Good Housekeeping—Good housekeeping requires that areas that may contribute pollutants to storm water discharges are maintained in a clean, orderly manner. At a minimum, the permittee shall:

(a) Schedule regular pickup and disposal of garbage and waste materials, or use other appropriate measures to reduce the potential for the discharge of storm water that has come into contact with garbage or waste materials. This schedule shall be included in the plan. Individuals responsible for waste management and disposal shall be informed of the procedures established under the plan.

(b) Routinely inspect for leaks and the condition of drums, tanks and containers. Ensure that spill cleanup procedures are understood by employees.

(c) Keep an up-to-date inventory of all materials present at the facility. While preparing the inventory, all containers should be clearly labeled. Hazardous containers that requires special handling, storage, use and disposal shall be clearly marked.

(d) Maintain clean ground surfaces.

(ii) Preventive Maintenance—A preventive maintenance program shall be developed and shall involve timely inspection and maintenance of storm water management devices (e.g., oil/water separators, catch basins, dikes, storm sewer, basins, pipes). Also, preventive maintenance includes inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures, and ensuring appropriate maintenance of such equipment and systems.

(iii) Spill Prevention and Response Procedures—Spill prevention and response procedures shall be developed. Areas where potential spills (that can contribute pollutants to storm water discharges) can occur and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up (e.g., absorbent materials) should be available to personnel.

(iv) Inspections—Qualified personnel shall conduct quarterly inspections. A wet weather inspection (during a rainfall event) shall be conducted in the second (April to June) and third quarters (July to September) of each year. A dry weather inspection (no precipitation) shall be conducted in the first (January to March) and fourth quarters (October to December). Such inspections shall be documented and this documentation shall be retained as part of the pollution prevention plan. Changes based on the

results of the quarterly inspections shall be made in a timely manner.

(a) When a seasonal dry period is sustained for more than 3 months, a dry weather inspection will satisfy the wet weather inspection requirement.

(b) All areas exposed to precipitation at the facilities shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented or whether additional control measures are needed. Structural storm water management measures (diking, berming, curbing, sediment and erosion control measures, stabilization controls, etc.) required under this section shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(v) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping, material management practices and procedures for equipment and container cleaning and washing. The pollution prevention plan shall identify periodic dates for such training of at least once per year.

(vi) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(vii) Facility Security—Facilities shall have the necessary security systems to prevent accidental or intentional entry that could cause a discharge. Security systems described in the plan shall address fencing, lighting, vehicular traffic control, and securing of equipment and buildings.

(b) Structural Practices—The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see Part XI.C.4.a.(2) (Description of Potential Pollutant Sources) of this permit] shall be considered when determining reasonable and appropriate structural measures. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained.

(i) Practices for Material Handling and Storage Areas—Permittees shall ensure the implementation of practices that conform with the following:

(a) In areas where liquid or powdered materials are stored, facilities shall provide either diking, curbing, berms, or other appropriate measures to reduce the potential of discharge of liquid or powdered materials in storm water.

(b) In all other outside storage areas including storage of used containers, machinery, scrap and construction materials, and pallets, facilities shall prevent or minimize storm water runon to the storage area by using curbing, culverting, gutters, sewers or other forms of drainage control.

(c) In all storage areas, roofs, covers or other forms of appropriate protection shall be used to prevent storage areas from exposure to storm water and wind. For the purpose of this paragraph, tanks would be considered to be appropriate protection.

(d) In areas where liquid or powdered materials are transferred in bulk from truck or rail cars, permittees shall provide appropriate measures to minimize contact of material with precipitation. Permittees shall consider providing for hose connection points at storage containers to be inside containment areas, and drip pans to be used in areas that are not in a containment area, where spillage may occur (e.g., hose reels, connection points with rail cars or trucks) or equivalent measures.

(e) In areas of transfer of contained or packaged materials and loading/unloading areas, permittee shall consider providing appropriate protection such as overhangs or door skirts to enclose trailer ends at truck loading/unloading docks or an equivalent.

(f) Drainage from areas covered by paragraph XI.C.4.a.(3)(b)(i) of this section should be restrained by valves or other positive means to prevent the discharge of a spill or leak. Containment units may be emptied by pumps or ejectors; however, these shall be manually activated.

(g) Flapper-type drain valves shall not be used to drain containment areas. Valves used for the drainage of containment areas should, as far as is practical, be of manual, open-or-closed design.

(h) If facility drainage is not engineered as above, the final discharge point of all in-facility sewers should be equipped to prevent or divert the discharge, in the event of an uncontrolled spill of materials, return the spilled material to the facility.

(c) Management of Runoff—The plan shall contain a description of storm water management practices used and/or to be used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. Appropriate measures may include: vegetative swales, ripraps, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, use of porous pavements, and wet detention/retention devices.

(d) Sediment and Erosion Control—The plan shall identify areas that, due to topography, activities, or other factors, have a potential for significant soil erosion. Plans shall describe permanent stabilization practices and shall ensure that disturbed portions of the site are stabilized. Stabilization practices may include: permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures.

(e) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit that receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph (iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water

listed in Part III.A.2. (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [insert date 270 days after permit issuance] or, for facilities that begin to discharge storm water associated with industrial activity after [insert date 270 days after permit issuance] 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States that are not authorized by an NPDES permit are unlawful, and must be terminated.

(4) Comprehensive Site Compliance Evaluation. A member(s) of the pollution prevention team or a qualified professional designated by the team shall conduct, at a minimum, annual site compliance evaluations.

(a) Areas contributing to a storm water discharge associated with industrial activity such as material storage and handling, loading and unloading, process activities, and plant yards shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, other structural pollution prevention measures identified in the plan, as well as process related pollution control equipment shall be observed or tested to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources (see Part XI.C.4.a.(2)) and pollution prevention measures and controls (see Part XI.C.4.a.(3)) identified in the plan shall be revised as appropriate within 2 weeks of such evaluation. In addition, it shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, observations relating to the implementation of the plan, and actions taken in accordance with paragraph XI.C.4.a.(4)(b) (above) shall be made and retained as part of the plan for at least 3 years after the date of the evaluation. The report shall also identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

5. Numeric Effluent Limitations

In addition to the numeric effluent limitations described by Part V.B. of this permit, the following effluent limitations shall be met by existing and new discharges with:

a. Phosphate Fertilizer Manufacturing Runoff. The provisions of this paragraph are applicable to storm water discharges from the Phosphate Subcategory of the Fertilizer Manufacturing Point Source Category (40 CFR 418.10). The term contaminated storm water runoff shall mean precipitation runoff, that during manufacturing or processing, comes into contact with any raw materials, intermediate product, finished product, by-products or waste product (40 CFR 418.11(c)). The concentration of pollutants in storm water discharges shall not exceed the effluent limitations in Table C–1.

TABLE C–1.—NUMERIC EFFLUENT LIMITATIONS

Effluent characteristics	Effluent limitations (mg/L)	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Total Phosphorus (as P)	105.0	35.0
Fluoride	75.0	25.0

6. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements.

During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with agricultural chemical manufacturing facilities; industrial inorganic chemical facilities; soaps, detergents, cosmetics, and perfume manufacturing facilities; and plastics, synthetics, and resin manufacturing facilities must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 6.a.(3) (Sampling Waiver), 6.a.(4) (Representative Discharge), and 6.a.(5) (Alternative Certification). Agricultural chemical manufacturing facilities; industrial inorganic chemical facilities; soaps, detergents, cosmetics, and perfume manufacturing facilities; and plastics, synthetics, and resin manufacturing facilities are required to monitor their storm water discharges for the pollutants of concern listed in Tables C–2, C–3, C–4, and C–5 below. Facilities must report in accordance with 6.b. (Reporting). In addition to the parameters listed in Tables C–2, C–3, C–4, and C–5 below, the permittee shall

provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE C–2.—AGRICULTURAL CHEMICALS MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Nitrate plus Nitrite Nitrogen	0.68 mg/L
Total Recoverable Lead	0.0816 mg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Zinc	0.065 mg/L
Phosphorus	2.0 mg/L

TABLE C–3.—INDUSTRIAL INORGANIC CHEMICALS MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Recoverable Aluminum .	0.75 mg/L
Total Recoverable Iron	1.0 mg/L
Nitrate plus Nitrite Nitrogen	0.68 mg/L

TABLE C–4.—SOAPS, DETERGENTS, COSMETICS, AND PERFUMES MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Nitrate plus Nitrite Nitrogen	0.68 mg/L
Total Recoverable Zinc	0.065 mg/L

TABLE C–5.—PLASTICS, SYNTHETICS, AND RESINS MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Recoverable Zinc	0.065 mg/L

(1) Monitoring Periods. Agricultural chemical manufacturing facilities; industrial inorganic chemical facilities; soaps, detergents, cosmetics, and perfume manufacturing facilities; and plastics, synthetics, and resin manufacturing facilities shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table C-2 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph (*b*) below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility

within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph *b.* below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b Reporting. Permittees with agricultural chemical manufacturing facilities; industrial inorganic chemical facilities; soaps, detergents, cosmetics, and perfume manufacturing facilities; and plastics, synthetics, and resin manufacturing facilities shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one Discharge Monitoring Report Form must be submitted per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), agricultural chemical manufacturing facilities; industrial inorganic chemical facilities; soaps, detergents, cosmetics, and perfume manufacturing facilities; and plastics, synthetics, and resin manufacturing facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Compliance Monitoring Requirements. In addition to the monitoring required in paragraph 6a (above), permittees with contaminated storm water runoff from phosphate fertilizer manufacturing facilities must monitor their contaminated storm water discharges for the presence of phosphorus and fluoride at least annually (one time per year). Facilities must report in accordance with Part XI.C.6.c.(2) (Reporting). In addition to the parameters listed above, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled;

(1) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

(2) Reporting. Permittees with phosphate fertilizer manufacturing facilities shall submit monitoring results obtained during the reporting period beginning [insert date of permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following [insert month after permit issuance date]. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office indicated in Part VI.B. of this permit.

(3) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph (2) (above), permittees that discharge through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph (3) (above).

d. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each of the following periods: January through March; April through June; July through September; and October through December during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(*1*) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(*2*) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids,

settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(*3*) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(*4*) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(*5*) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

D. Storm Water Discharges Associated With Industrial Activity From Asphalt Paving and Roofing Materials and Lubricant Manufacturers

1. Discharges Covered Under This Section. a. This section of the permit describes requirements for all existing point source discharges of storm water associated with industrial activity to waters of the United States from facilities engaged in manufacturing asphalt paving and roofing materials, including those facilities commonly identified by Standard Industrial Classification (SIC) codes 2951 and 2952.

b. This section of the permit describes requirements for all existing point source discharges of storm water associated with industrial activity to waters of the United States from portable asphalt plant facilities (also commonly identified by SIC code 2951).

c. This section of the permit describes requirements for all existing point source discharges of storm water associated with industrial activity to waters of the United States from facilities engaged in manufacturing lubricating oils and greases, including those facilities classified as SIC code 2992.

d. When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

e. Limitations on Coverage. The following storm water discharges associated with industrial activity are not authorized by this section of the permit:

(*1*) Storm water discharges from petroleum refining facilities, including those that manufacture asphalt or asphalt products and that are classified as SIC code 2911,

(*2*) Storm water discharges from oil recycling facilities, and

(*3*) Storm water discharges associated with fats and oils rendering.

2. Special Conditions. a. Prohibition of Non-storm Water Discharges.

(*1*) There are no additional prohibitions beyond those listed in Section III.A.2. of this permit.

3. Storm Water Pollution Prevention Plan Requirements. a. Contents of Plan. The plan shall include, at a minimum, the following items:

(*1*) *Pollution Prevention Team.* Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(*2*) *Description of Potential Pollutant Sources.* Each plan shall provide a description of potential sources that may reasonably be expected to add significant amounts of pollutants to storm water discharges or that may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials that may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(*i*) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under XI.D.3.a.(2)(c) (spills and leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas including areas where raw materials, finished products and drums are stored. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(*ii*) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants that are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of a chemical; quantity of chemicals used,

produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(*b*) *Inventory of Exposed Materials*—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(*d*) *Spills and Leaks*—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(*d*) *Sampling Data*—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(*e*) *Risk Identification and Summary of Potential Pollutant Sources*—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

(*3*) *Measures and Controls.* Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(*a*) *Good Housekeeping*—Good housekeeping requires the maintenance of areas that may contribute pollutants to storm water discharges in a clean, orderly manner. Particular attention should be paid to areas where raw materials are stockpiled, material handling areas, storage areas, liquid storage tanks, material handling areas, and loading/unloading areas.

(*b*) *Preventive Maintenance*—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills that can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—In addition to or as part of the comprehensive site evaluation required under XI.D.3.a.(4) of this section, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. Material storage and handling areas, liquid storage tanks, hoppers or silos, vehicle and equipment maintenance, cleaning, and fueling areas, material handling vehicles, equipment and processing areas shall be inspected at least once per month as part of the maintenance program. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit that receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.D.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan.

The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities that begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States that are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those that control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.D.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetated swales, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), infiltration devices, and detention/retention basins or other equivalent measures.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Evaluations shall be conducted at least once at portable plant locations that are not in operation for a complete year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity including; material storage and handling areas, liquid storage tanks, hoppers or silos, vehicle and equipment maintenance, cleaning, and fueling areas, material handling vehicles, equipment and processing areas, and areas where aggregate is stockpiled outdoors shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, (e.g., oil/water separators, detention ponds, sedimentation basins or equivalent measures) sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as dust collection equipment and spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with XI.D.3.a.(2) of this section (description of potential pollutant sources) and pollution prevention measures and controls identified in the plan in accordance with XI.D.3.a.(3) of this section (measures and controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case later than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph (4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under XI.D.3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations. In addition to the numeric effluent limitations listed in Part V.B. of this permit,discharges from areas where production of asphalt paving and roofing emulsions occurs may not exceed a TSS concentration of 23.0 mg/L of runoff for any 1 day, nor shall the average of daily values for 30 executive days exceed a TSS concentration of 15.0 mg/L of runoff. Oil and grease concentrations in storm water discharges from these areas may not exceed 15.0 mg/L of runoff for any 1 day, nor should the average daily values for 30 consecutive days exceed an oil and grease concentration of 10.0 mg/L of runoff. The pH of these discharges must be within the range of 6.0 to 9.0.

5. Monitoring and Reporting Requirements. a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with asphalt paving and roofing materials manufacturing facilities (including portable plants) must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Asphalt paving and roofing materials manufacturing facilities are required to monitor their storm water discharges for the pollutant of concern listed in Table D–1 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table D–1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE D–1.—MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Suspended Solids	100 mg/L

(1) Monitoring Periods. Asphalt paving and roofing materials manufacturing facilities shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table B–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph (b) below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (b) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements in part XI.D.5.c of this permit associated with effluent limitations.

b. Reporting. Permittees with asphalt paving and roofing materials manufacturing facilities shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report Form must be submitted per storm event completed. Signed copies of Discharge Monitoring

Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), asphalt paving and roofing materials manufacturing facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated period [described in (1), below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of evaluating storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for the life of the permit.

(3) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation on site with the results of the visual examination. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(6) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

d. Compliance Monitoring Requirements. Permitters with facilities that produce asphalt paving or roofing emulsions must monitor their storm water discharges associated with these activities for the presence of TSS, oil and grease, and for pH at least annually (one time per year). Facilities must report in accordance with 5.d.(2) (reporting). In addition to the parameters listed above, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

(1) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

(2) Reporting. Permittees with asphalt paving or roofing emulsion production facilities shall submit monitoring results obtained during the reporting period beginning [insert date of permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the last day of the following [insert month after permit issuance date]. Signed copies of Discharge Monitoring Reports shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office indicated in Part VI.B. of this permit. For each outfall one Discharge monitoring form shall be submitted per storm event sampled.

(3) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph (2) (above), permittees that discharge through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph (3) (above).

E. Storm Water Discharges Associated With Industrial Activity From Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing Facilities

1. Discharges Covered Under This Section. The requirements listed under this section shall apply to storm water discharges from the following activities: manufacturing flat, pressed, or blown glass or glass containers; manufacturing hydraulic cement; manufacturing clay products including tile and brick; manufacturing of pottery and porcelain electrical supplies; manufacturing concrete products; manufacturing gypsum products; nonclay refractories; and grinding or otherwise treating minerals and earths. This section generally includes the following types of manufacturing operations: flat glass, (SIC code 3211); glass containers, (SIC code 3221); pressed and blown glass, not elsewhere classified, (SIC code 3229); hydraulic cement, (SIC code 3241); brick and structural clay tile, (SIC code 3251); ceramic wall and floor tile, (SIC code 3253); clay refractories, (SIC code 3255); structural clay products not elsewhere classified (SIC code 3259); vitreous china table and kitchen articles (SIC code 3262); fine earthenware table and kitchen articles (SIC code 3263); porcelain electrical supplies, (SIC code 3264); pottery products, (SIC code 3269); concrete block and brick, (SIC code 3271); concrete products, except block and brick (SIC code 3272); ready-mix concrete, (SIC code 3273); gypsum products, (SIC code 3275); minerals and earths, ground or otherwise treated, (SIC code 3295); and nonclay refractories, (SIC code 3297).

Facilities engaged in the following activities are not eligible for coverage under this section: lime manufacturing (SIC 3274); cut stone and stone products (SIC 3281); abrasive products (SIC 3291); asbestos products (SIC 3292); mineral wool and mineral wool insulation products (SIC 3296).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions. a. Prohibition of Non-storm Water Discharges. The discharge of pavement washwaters are only authorized where the permittee has minimized the presence of spilled materials in accordance with part XI.E.3.a.(3).(a).(i) of this permit.

3. Storm Water Pollution Prevention Plan Requirements. a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources that may reasonably be expected to add significant amounts of pollutants to storm water discharges or that may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials that may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.E.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas. Facilities shall also identify, on the site map, the location of any: bag house or other dust control device; recycle/sedimentation pond, clarifier or other device used for the treatment of process wastewater and the areas that drain to the treatment device. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants that are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials.—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential

pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter [e.g., Total Suspended Solids (TSS), etc.] of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas that may contribute pollutants to storm water discharges in a clean, orderly manner.

(i) Facilities shall prevent or minimize the discharge of spilled cement, aggregate (including sand or gravel), kiln dust, fly ash, settled dust other significant materials in storm water from paved portions of the site that are exposed to storm water. Measures used to minimize the presence of these materials may include regular sweeping, or other equivalent measures. The plan shall indicate the frequency of sweeping or other measures. The frequency shall be determined based upon consideration of the amount of industrial activity occurring in the area and frequency of precipitation, but shall not be less than once per week when cement, aggregate, kiln dust or fly ash are being handled or otherwise processed in the area.

(ii) Facilities shall prevent the exposure of fine granular solids such as cement, fly ash, and kiln dust to storm water. Where practicable, these materials shall be stored in enclosed silos, hoppers or buildings, in covered areas, or under covering.

(b) Preventive Maintenance—A preventive maintenance program shall involve routine inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills that can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility specified in the plan. The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of once per month while the facility is in operation. The inspection shall take place while the facility is in operation and shall at a minimum include all of the following areas that are exposed to storm water at the site: material handling areas, above ground storage tanks, hoppers or silos, dust collection/containment systems, truck wash down and equipment cleaning areas. Tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping, truck wash out procedures, equipment wash down procedures and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit that receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.E.3.a.(3)(g)(iii) (below).

Facilities engaged in production of ready-mix concrete, concrete block, brick or other products shall include in the certification a description of measures that insure that process waste water that results from washing of trucks, mixers, transport buckets, forms or other equipment are discharged in accordance with NPDES requirements or are recycled. Facilities with wash water recycle ponds shall include an estimate of the amount of rainfall (in inches) required to cause the recycle pond to overflow in a 24-hour period.

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities that begin to discharge storm water

associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States that are not authorized by an NPDES permit are unlawful, and must be terminated.

(i) Sediment and Erosion Control—The plan shall identify areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those that control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.E.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices or other equivalent measures.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity including but not limited to: material handling areas, above ground storage tanks, hoppers or silos, dust collection/containment systems, truck wash down and equipment cleaning areas shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures such as recycle ponds, identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.E.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.E.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.E.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

In addition to the numeric effluent limitations described by Part V.B, the following limitations shall be met by existing and new dischargers.

a. Cement Manufacturing Facility, Material Storage Runoff. Any discharge composed of runoff that derives from the storage of materials including raw materials, intermediate products, finished products, and waste materials that are used in or derived from the manufacture of cement shall not exceed a maximum concentration for any time of 50 mg/L Total Suspended Solids (TSS) nor the 6.0 to 9.0 range limitation for pH. Runoff from the storage piles shall not be diluted with other storm water runoff or flows to meet this limitation. Any untreated overflow from facilities designed, constructed and operated to treat the volume of material storage pile runoff that is associated with a 10-year, 24-hour rainfall event shall not be subject to the TSS or pH limitations. Dischargers subject to these numeric effluent limitations must be in compliance with these limits upon commencement of coverage and for the entire term of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees that manufacture clay products and concrete products and gypsum products must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year during years 2 and 4) except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification).

Clay product manufacturers include; brick and structural clay tile manufacturers (SIC 3251), ceramic wall and floor tile manufacturers (SIC 3253), clay refractories (SIC 3255), manufacturers of structural clay products, not elsewhere classified (SIC 3259), manufacturers of vitreous china table and kitchen articles (SIC 3232), manufacturers of fine earthenware table and kitchen articles (SIC 3263), manufacturers of porcelain electrical supplies (SIC 3264), pottery products (SIC 3269) and non-clay refractories (3297). Facilities with these industrial activities must monitor for the pollutant listed in Table E–1.

Concrete and gypsum product manufacturers include concrete block and brick manufacturers (SIC 3271), concrete products manufacturers (SIC 3272), ready mix concrete manufacturers (SIC 3273), gypsum

product manufacturers (SIC 3275) and manufacturers of mineral and earth products (SIC 3295). Facilities with these industrial activities must monitor for the pollutant listed in Table E–2.

Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Tables E-1 and E-2 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE E–1.—MONITORING REQUIREMENTS FOR CLAY PRODUCT MANUFACTURERS

Pollutants of concern	Monitoring cut-off concentration
Total Recoverable Aluminum	0.75 mg/L

TABLE E–2.—MONITORING REQUIREMENTS FOR CONCRETE AND GYPSUM PRODUCT MANUFACTURERS

Pollutants of concern	Monitoring cut-off concentration
Total Suspended Solids (TSS) ...	100 mg/L
Total Recoverable Iron	1.0 mg/L

(1) Monitoring Periods. Facilities subject to analytical monitoring requirements described in part XI.E.5.a, shall monitor samples collected during the sampling periods of: January to March, April to June, July to September, and October to December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or non-process water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table E–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall, on pollutant by pollutant basis in lieu of monitoring reports required by paragraph (*b*) below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*b*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required

up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations. EPA does not expect facilities to be able to exercise this certification for indicator parameters, such as TSS and BOD.

(b) Reporting. Permittees with monitoring requirements under Part XI.E.5.a. shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report Form must be submitted for each event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet to this permit.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), facilities with monitoring requirements under Part XI.E.5.a. with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Quarterly Visual Examination of Storm Water Quality. Glass, clay, cement, concrete, and gypsum manufacturing facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) must be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the evaluation data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

d. Compliance Monitoring Requirements. Permittees with cement manufacturing facilities must monitor runoff from material storage for the presence of TSS and pH at least annually (one time per year). Facilities must report in accordance with 5.d.(2) below (reporting). In addition to the parameters listed above, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

(1) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

(2) Reporting. Permittees with material storage runoff from cement manufacturing facilities shall submit monitoring results obtained during the reporting period beginning [insert date of permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following [insert month after permit issuance date]. Signed copies of Discharge Monitoring Reports shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office indicated in Part VI.B. of this permit. For each outfall, one signed Discharge Monitoring Report form shall be submitted for each storm event sampled.

(3) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph (2) (above), permittees with discharges of material storage runoff from cement manufacturing facilities through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph 5.d.(3) (above).

F. Storm Water Discharges Associated With Industrial Activity From Primary Metals Facilities

1. Discharges Covered Under This Section

The requirements listed under this section of today's permit shall apply to storm water discharges from the primary metal industry, which includes the following types of facilities:

a. Steel works, blast furnaces, and rolling and finishing mills including: steel wiredrawing and steel nails and spikes; cold-rolled steel sheet, strip, and bars; and steel pipes and tubes (SIC code 331).

b. Iron and steel foundries, including: gray and ductile iron, malleable iron, steel investment, and steel foundries not elsewhere classified (SIC code 332).

c. Primary smelting and refining of nonferrous metals, including: primary smelting and refining of copper, and primary production of aluminum (SIC code 333).

d. Secondary smelting and refining of nonferrous metals (SIC code 334).

e. Rolling, drawing, and extruding of nonferrous metals, including: rolling, drawing, and extruding of copper; rolling, drawing, and extruding of nonferrous metals, except copper and aluminum; and drawing and insulating of nonferrous wire (SIC code 335).

f. Nonferrous foundries (castings), including: aluminum die-castings, nonferrous die-castings, except aluminum, aluminum foundries, copper foundries, and nonferrous foundries, except copper and aluminum (SIC code 336).

g. Miscellaneous primary metal products, not elsewhere classified, including: metal heat treating, and primary metal products, not elsewhere classified (SIC code 339).

Activities covered include, but are not limited to, storm water discharges associated with coking operations, sintering plants, blast furnaces, smelting operations, rolling mills, casting operations, heat treating, extruding, drawing, or forging of all types of ferrous and nonferrous metals, scrap, and ore.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges. There are no additional requirements beyond those described in Part III.A.2. of this permit.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources that may reasonably be expected to add significant amounts of pollutants to storm water discharges or that may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials that may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.F.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes such as spent solvents or baths, sand, slag or dross, liquid storage tanks or drums, processing areas including pollution control equipment such as baghouses, and storage areas of raw materials such as coal, coke, scrap, sand, fluxes, refractories, or metal in any form. The map shall also indicate areas of the facility where accumulation of significant amounts of particulate matter from operations such as furnace or oven emissions or losses from coal/coke handling operations, etc., is likely, and could result in a discharge of pollutants to waters of the United States. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants that are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of a chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives. This description should also include areas with the potential for deposition of particulate matter from process air emissions or losses during material handling activities. The description shall be updated whenever there is a significant change in the type or quantity of exposed materials, or material management practices, that may affect the exposure of materials to storm water.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes occurring indoors or out, with or without pollution control equipment in place to trap particulates; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., chemical oxygen demand, oil and grease, copper, lead, zinc, etc.) of concern, shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas that may contribute pollutants to storm water discharges in a clean, orderly manner. The pollution prevention plan should consider implementation of the following measures, or equivalent measures, where applicable.

(i) Establish a cleaning or maintenance program for all impervious areas of the facility where particulate matter, dust, or debris may accumulate, particularly areas of material loading/unloading, material storage and handling, and processing.

(ii) Pave areas of vehicle traffic or material storage where vegetative or other stabilization methods are not practical. Institute sweeping programs in these areas as well.

(iii) For unstabilized areas of the facility where sweeping is not practical, storm water management devices such as sediment traps, vegetative buffer strips, filter fabric fence, sediment filtering boom, gravel outlet protection, or other equivalent measures, that effectively trap or remove sediment should be considered.

(b) Source Controls—The permittee shall consider preventive measures to minimize the potential exposure of all significant materials (as described in Part XI.F.3.a.(3) of this section) to precipitation and storm water runoff. The permittee should consider the implementation of the following measures, or equivalent measures, to reduce the exposure of all materials to storm water:

(i) Relocating all materials, including raw materials, intermediate products, material handling equipment, obsolete equipment, and wastes currently stored outside to inside locations.

(ii) Establishment of a schedule for removal of wastes and obsolete equipment to minimize the volume of these materials stored onsite that may be exposed to storm water.

(iii) Substitution of less hazardous materials, or materials less likely to contaminate storm water, or substitution of recyclable materials for nonrecyclables wherever possible.

(iv) Constructing permanent or semipermanent covers, or other similar forms of protection over stockpiled materials, material handling and processing equipment. Options include roofs, tarps, and covers. This may also include the use of containment bins or covered dumpsters for raw materials, waste materials and nonrecyclable waste materials.

(v) Dikes, berms, curbs, trenches, or other equivalent measures to divert runon from material storage, processing, or waste disposal areas.

(c) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(i) A schedule for inspection and maintenance of all particulate emissions control equipment should be established to ensure proper operation. Inspections should be conducted as described in Section XI.F.3.a.(3)(e) below. Detection of any leaks or defects that could lead to excessive emissions shall be repaired as soon as practicable. Where significant settling or deposition from process emissions are observed during proper operation of existing equipment, the permittee shall consider ways to reduce these emissions including but not limited to: upgrading or replacing existing equipment; collecting runoff from areas of deposition for treatment or recycling; or changes in materials or processes to reduce the generation of particulate matter.

(ii) Structural Best Management Practices (BMPs) will be visually inspected for signs of washout, excessive sedimentation, deterioration, damage, or overflowing, and shall be repaired or maintained as soon as practicable.

(d) Spill Prevention and Response Procedures—Areas where potential spills that can contribute pollutants to storm water discharges may occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage

requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(e) Inspections—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals, but no less frequently than once during each of the following periods: January through March; April through June; July through September; and October through December. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained. Inspections shall be conducted on a quarterly basis and address, at a minimum, the following areas where applicable:

(i) Air pollution control equipment such as baghouses, electrostatic precipitators, scrubbers, and cyclones, should be inspected on a routine basis for any signs of disrepair such as leaks, corrosion, or improper operation that could limit their efficiency and lead to excessive emissions. The permittee should consider monitoring air flow at inlets and outlets, or equivalent measures, to check for leaks or blockage in ducts. Visual inspections shall be made for corrosion, leaks, or signs of particulate deposition or visible emissions that could indicate leaks.

(ii) All process or material handling equipment such as conveyors, cranes, and vehicles should be inspected for leaks, drips, etc. or for the potential loss of materials.

(iii) Material storage areas such as piles, bins or hoppers for storing coke, coal, scrap, or slag, as well as chemicals stored in tanks or drums, should be examined for signs of material losses due to wind or storm water runoff.

(f) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(g) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(h) Non-storm Water Discharges.

(i) Certification. The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit that receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.F.3.a.(3)(h)(iii) (below).

(ii) Exceptions. Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2. (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities that begin to discharge storm water associated with industrial activity after [Insert 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States that are not authorized by an NPDES permit are unlawful, and must be terminated.

(i) Sediment and Erosion Control—The plan shall identify areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion. The plan shall also contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those that control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see paragraph XI.F.3.a.(2) of this section (Description of Potential Pollutant Sources) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices or other equivalent measures.

(j) Management of Runoff—Facilities shall consider implementation of the following storm water management practices or other equivalent measures to address pollutants of concern:

(i) Vegetative buffer strips, filter fabric fence, sediment filtering boom, or other equivalent measures, that effectively trap or remove sediment prior to discharge through an inlet or catch basin.

(ii) Media filtration such as catch basin filters and sand filters.

(iii) Oil/water separators or the equivalent.

(iv) Structural BMPs such as settling basins, sediment traps, retention or detention ponds, recycling ponds or other equivalent measures.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at

appropriate intervals specified in the plan but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity such as material storage and handling, loading and unloading, process activities, and plant yards shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, other structural pollution prevention measures identified in the plan, as well as process related pollution control equipment shall be observed or tested to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.F.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.F.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.F.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(e), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional effluent limitations beyond those described in Part V.B. of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with primary metals facilities identified by SIC codes 331, 332, 335, and 336 must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year during the second and fourth year of coverage) except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Primary metals facilities are required to monitor their storm water discharges for the pollutants of concern listed in Tables F–1, F–2, F–3, and F–4 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Tables F–1 through F–4 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE F–1.—STEEL WORKS, BLAST FURNACES, AND ROLLING AND FINISHING MILLS (SIC 331) MONITORING REQUIREMENTS

Pollutants of concern	Monitoring cut-off concentration
Total Recoverable Aluminum	0.75 mg/L
Total Recoverable Zinc	0.065 mg/L

TABLE F–2.—IRON AND STEEL FOUNDRIES (SIC 332) MONITORING REQUIREMENTS

Pollutants of concern	Monitoring cut-off concentration
Total Recoverable Aluminum	0.75 mg/L
Total Suspended Solids	100 mg/L
Total Recoverable Copper	0.0636 mg/L
Total Recoverable Iron	1 mg/L
Total Recoverable Zinc	0.065 mg/L

TABLE F–3.—ROLLING, DRAWING, AND EXTRUDING OF NON-FERROUS METALS (SIC 335) MONITORING REQUIREMENTS

Pollutants of concern	Monitoring cut-off concentration
Total Recoverable Copper	0.0636 mg/L
Total Recoverable Zinc	0.065 mg/L

TABLE F–4.—NON-FERROUS FOUNDRIES (SIC 336) MONITORING REQUIREMENTS

Pollutants of concern	Monitoring cut-off concentration
Total Recoverable Copper	0.0636 mg/L
Total Recoverable Zinc	0.065 mg/L

(1) Monitoring Periods. Primary metals facilities shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event internal may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why

a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table F-1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph (*b*) below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*b*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. The certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b. Reporting. Permittees with primary metals facilities shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one Discharge Monitoring Report Form must be submitted per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), primary metals facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated period [described in (*1*) below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snow melt begins discharging. The examinations shall

document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(3) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan, a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (e.g., drought, extended frozen conditions, etc.).

(6) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

G. Storm Water Discharges Associated With Industrial Activity From Metal Mining (Ore Mining and Dressing) Facilities

1. Discharges Covered Under This Section

The requirements listed under this section shall apply to storm water discharges from active and inactive metal mining and ore dressing facilities (Standard Industrial Classification (SIC) Major Group 10) if the storm water has come into contact with, or is contaminated by, any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the operation. SIC Major Group 10 includes establishments primarily engaged in mining, developing mines, or exploring for metallic minerals (ores) and also includes all ore dressing and beneficiating operations, whether performed at mills operated in conjunction with the mines served or at mills, such as custom mills, operated separately. For the purposes of this part of the permit, the term "metal mining" includes all ore mining and/or dressing and beneficiating operations, whether performed at mills operated in conjunction with the mines served or at mills, such as custom mills, operated separately. All storm water discharges from inactive metal mining facilities and the storm water discharges from the following areas of active, and temporarily inactive, metal mining facilities are the only discharges covered by this section of the permit: topsoil piles; offsite haul/access roads if off active area; onsite haul roads if not constructed of waste rock or if spent ore and mine water is not used for dust control; runoff from tailings dams/dikes when not constructed of waste rock/tailings and no process fluids are present; concentration building, if no contact with material piles; mill site, if no contact with material piles; chemical storage area; docking facility, if no excessive contact with waste product; explosive storage; reclaimed areas released from reclamation bonds prior to December 17, 1990; and partially/inadequately reclaimed areas or areas not released from reclamation bonds.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

a. Limitations on Coverage. The following storm water discharges associated with industrial activity are not authorized by this permit:

(1) Discharges from active metal mining facilities that are subject to the effluent limitation guidelines for the Ore Mining and Dressing Point Source Point Source Category (40 CFR Part 440). Coverage under this permit does not include adit drainage or contaminated springs or seeps at active facilities, temporarily inactive facilities, or inactive facilities. Also see Limitations on Coverage, Part I.B.3.

(2) Storm water discharges associated with an industrial activity that the Director (EPA) has determined to be, or may reasonably be expected to be, contributing to a violation of a water quality standard.

(3) Storm water discharges associated with industrial activity from inactive mining operations occurring on Federal lands where an operator cannot be identified.

2. Special Definitions

The following definitions are only for this section of today's permit and are not intended to supersede the definitions of active and inactive mining facilities established by 40 CFR 122.26(b)(14)(iii):

"Active Metal Mining Facility" is a place where work or other related activity to the extraction, removal, or recovery of metal ore is being

conducted. With respect to surface mines, an "active metal mining facility" does not include any area of land on or in which grading has been completed to return the earth to a desired contour and reclamation work has begun.

"Inactive Metal Mining Facility" means a site or portion of a site where metal mining and/or milling activities occurred in the past but is not an active metal mining facility, as defined in this permit and that portion of the facility does not have an active mining permit issued by the applicable (federal or state) governmental agency.

"Temporarily Inactive Metal Mining Facility" means a site or portion of a site where metal mining and/or milling activities occurred in the past, but currently are not being actively undertaken, and the facility has an active mining permit issued by the applicable (federal or state) government agency that authorizes mining at the site.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan for Active and Temporarily Inactive Metal Mining Facilities. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Identification of a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Mining Activities. A description of the mining and associated activities taking place at the site that affect or may affect storm water runoff intended to be covered by this permit. The description shall report the total acreage within the mine site, an estimate of the number of acres of disturbed land and an estimate of the total amount of land proposed to be disturbed throughout the life of the mine. A general description of the location of the mining site relative to major transportation routes and communities shall also be provided.

(3) Description of Potential Pollutant Sources. A description of potential sources that may reasonably be expected to add significant amounts of pollutants (including sediment) to storm water discharges or that may result in the discharge of pollutants during dry weather. Each description shall identify all activities and significant materials that may potentially be significant storm water pollutant sources from the active mining activity (see Part XI.G.1.), including, at a minimum:

(a) Drainage.

(i) A site topographic map that indicates, at a minimum: mining/milling site boundaries and access and haul roads; the location of each storm water outfall and an outline of the portions of the drainage area that are within the facility boundaries; equipment storage, fueling and maintenance areas; materials handling areas; storage areas for chemicals and explosives; areas used for storage of overburden, materials, soils or wastes; location of mine drainage (where water leaves mine) or any other process water; tailings piles/ponds, both proposed and existing; heap leach pads; points of discharge from the property for mine drainage or any other process water; springs, streams, wetlands and other surface waters; and boundary of tributary areas that are subject to effluent limitations guidelines. In addition, the map must indicate the types of discharges contained in the drainage areas of the outfalls.

(ii) Prediction of the direction of flow, and identification of the types of pollutants (e.g., heavy metals, sediment) that are likely to be present in storm water discharges associated with industrial activity, for each area of the mine/mill site that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants. Factors to consider include the mineralogy of the ore and waste rock (e.g., acid forming), toxicity and quantity of chemical(s) used, produced or discharged; the likelihood of contact with storm water; vegetation on site if any, and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation for each storm water outfall that may be covered under this permit (see Part XI.G.1.). Such inventory shall include a narrative description of: significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives. The inventory of exposed materials shall include, but shall not be limited to the significant materials stored exposed to storm water, and material management practices employed that were listed for the facility in the approved group application.

A summary of any existing ore or waste rock/overburden characterization data, including results of testing for acid rock generation potential. If the ore or waste rock/overburden characterization data is updated due to a change in the ore type being mined, the storm water pollution prevention plan shall be updated with the new data.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities associated with metal mining: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., heavy metals, etc.) of concern shall be identified.

(4) Measures and Controls. A description of storm water management controls appropriate for the facility, and procedures for implementing such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management

controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping such as maintenance in a clean, orderly manner of areas that may contribute pollutants to storm water discharges. (For suggested measures for vehicle maintenance operations, see good housekeeping measures specified in Part XI.P. for transportation facilities.)

(b) Preventive Maintenance—A narrative describing the program for timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspection and testing of facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems. Particular attention shall be given to erosion control and sediment control systems and devices.

(c) Spill Prevention and Response Procedures—Areas where potential spills that can contribute pollutants to storm water discharges, and their accompanying drainage points. The description area shall include, where appropriate, specific material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered; procedures for cleaning up spills and the method for making these plans and the necessary equipment to implement a clean up available to the appropriate personnel.

(d) Inspections—Provisions for qualified personnel to inspect designated equipment and mine areas at least on a monthly basis for active sites. The monthly inspections can be done at any time during the month and do not have to be done immediately following a precipitation event. For temporarily inactive sites, the inspections should be quarterly; however, inspections are not required when adverse weather conditions (e.g., snow) make the site inaccessible. All material handling areas shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion control systems and sediment control devices shall also be inspected to determine if they are working properly. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained. The use of a checklist developed by the facility is encouraged.

(e) Employee Training—Outlines of employee training programs that inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping, and material management practices. The pollution prevention plan shall specify how often training shall take place, but in all cases training must be held at least annually (once per calendar year).

(f) Recordkeeping and Internal Reporting Procedures—Descriptions of incidents (such as spills, major storm events, or other discharges), as well as information describing the quality and quantity of storm water discharges. Inspections, maintenance activities, and training sessions shall also be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) A certification that any discharge has been tested or evaluated for the presence of non-storm water discharges, such as seeps or adit discharges or discharges subject to effluent limitation guidelines (e.g., 40 CFR Part 440), such as mine drainage or process water of any kind. The certification shall include the identification of potential significant sources of non-storm water or water subject to effluent limitation guidelines at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit that receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.G.3.a.(4)(g)(iii) (below).

Alternatively, the plan may include a certification that any non-storm water discharge that mixes with storm water is subject to a separate NPDES permit that applies applicable effluent limitations prior to the mixing of non-storm water and storm water. In such cases, the certification shall identify the non-storm water discharge(s), the applicable NPDES permit(s), the effluent limitations placed on the non-storm water discharge by the NPDES permit(s), and the point(s) at which the limitations are applied.

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities that begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States that are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—Identification of areas that, due to topography, activities, or other factors, have a high potential for significant erosion of soil and/or other materials, and measures to be used to limit erosion and/or remove sediment from storm water runoff. The measures to consider include diversion of flow away from areas susceptible to erosion (such as interceptor dikes and swales; diversion dikes curbs and berms; pipe slope drains; subsurface drains; and drainage/storm water conveyance systems [channels or gutters; open top box culverts, and waterbars; rolling dips and road sloping; roadway surface water deflector; and culverts]), stabilization methods to prevent or minimize erosion (such as temporary or permanent seeding; vegetative buffer strips; protection of trees; topsoiling; soil

conditioning; contouring; mulching; geotextiles [matting; netting; or blankets]; riprap; gabions; and retaining walls), and structural methods for controlling sediment (such as check dams; rock outlet protection; level spreaders; gradient terraces; straw bale barriers; silt fences; gravel or stone filter berms; brush barriers; sediment traps; grass swales; pipe slope drains; earth dikes; other controls such as entrance stabilization, waterway crossings or wind breaks; or other equivalent measures).

(i) Management of Runoff—A narrative consideration of the appropriateness of traditional storm water management practices (practices other than those that control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site and provisions for implementation and maintenance of measures that the permittee determines to be reasonable and appropriate. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.G.3.a.(3) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices, or impoundments.

(i) Capping—Where capping of a contaminant source is necessary, the source being capped and materials and procedures used to cap the contaminant source must be identified. In some cases, the elimination of a pollution source through capping contaminant sources may be the most effective control measure for discharges from inactive ore mining and dressing facilities.

(k) Treatment—A description of how storm water will be treated prior to discharging to waters of the United States if treatment of a storm water discharge is necessary. Storm water treatments include the following: chemical/physical treatment; oil/water separators; and artificial wetlands.

(5) Comprehensive Site Compliance Evaluation. Procedures for qualified personnel to conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall include:

(a) Visual inspections of areas contributing to a storm water discharge associated with industrial activity for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.G.3.a.(3) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.G.3.a.(4) of this section (Measures and Controls) shall be revised as appropriate within 30 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation unless additional time is authorized by the permit issuing authority.

(c) Preparation of a report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.G.3.a.(5)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under XI.G.3.a.(4)(d), the compliance evaluation may be conducted in place of one such inspection.

b. Contents of Plan for Inactive Metal Mining Facilities. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Identification of a specific individual or individuals that are responsible for the development, implementation, maintenance, and revision of the storm water pollution prevention plan. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the storm water pollution prevention plan at the inactive facility.

(2) Description of Mining Activities. A description of the mining and associated activities that took place at the site. The description shall report the approximate dates of operation, the total acreage within the mine and/or processing site, an estimate of the number of acres of disturbed area, and the current activities (e.g., reclamation) that are taking place at the facility. A general description of the location of the mining site relative to major transportation routes and communities shall also be provided.

(3) Description of Potential Pollutant Sources. A description of potential sources that may reasonably be expected to add significant amounts of pollutants (including sediment) to storm water discharges or that may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials that may potentially be significant storm water pollutant sources form the inactive mining site. Each description shall include, at a minimum:

(a) Site Map—A generalized site map or maps that depict any of the following that may be applicable: mining/milling site boundaries and access and haul roads; the location of each storm water outfall and an outline of the portions of the drainage area that are within the facility boundaries; areas used for storage of overburden, materials, soils, tailings, or wastes; areas used for outdoor manufacturing, storage, or disposal of materials; any remaining equipment storage, fueling, and maintenance ares; tailings piles/ponds; mine drainage or any other process water discharge points; an estimate of the direction(s) of flow; existing structural controls to reduce pollutants in storm water runoff; and springs, streams, wetlands, and other surface waters. The map must also indicate the types of discharges contained in the drainage areas of the outfalls.

(b) Inventory of Exposed Materials—An inventory and narrative description

for each outfall of any significant materials that may still be at the site. This description of sources should agree with sources identified on the map.

(c) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(d) Risk Identification and Summary of Potential Pollutant Sources—For each potential pollutant source at the site the pollutants of concern (e.g., heavy metals) shall be identified and an assessment made of the potential of these pollutant sources to contribute pollutants to storm water discharges.

(4) Measures and Controls. A description of storm water management controls appropriate for the facility, and procedures for implementing such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Storm Water Diversion—Description of how and where storm water will be diverted away from potential pollutant sources to prevent storm water contamination. Storm water diversions may include the following: interceptor dikes and swales; diversion dikes curbs and berms; pipe slope drains; subsurface drains; drainage/storm water conveyance systems (channels or gutters; open top box culverts, and waterbars; rolling dips and road sloping; roadway surface water deflector; and culverts) or equivalent measures.

(b) Sediment and Erosion Control—Identification of areas that, due to topography, activities, or other factors, have a high potential for significant erosion of soil and/or other materials, and measures to be used to limit erosion and/or remove sediment from storm water runoff. The measures to consider include diversion of flow away from areas susceptible to erosion, stabilization methods to prevent or minimize erosion (such as temporary or permanent seeding; vegetative buffer strips; protection of trees; topsoiling; soil conditioning; contouring; mulching; geotextiles (matting; netting; or blankets); riprap; gabions; and retaining walls), structural methods for controlling sediment (such as check dams; rock outlet protection; level spreaders; gradient terraces; straw bale barriers; silt fences; gravel or stone filter berms; brush barriers; sediment traps; grass swales; pipe slope drains; earth dikes; and other controls such as entrance stabilization, waterway crossings or wind breaks; or other equivalent measures).

(c) Management of Runoff—A narrative consideration of the appropriateness of traditional storm water management practices (practices other than those that control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site and provisions for implementation and maintenance of measures that the permittee determines to be reasonable and appropriate. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.G.3.b.(3) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls, snow management activities, infiltration devices, and wet detention/retention devices, or impoundments.

(d) Capping—Where capping of a contaminant source is necessary, the source being capped and materials and procedures used to cap the contaminant source must be identified. In some cases, the elimination of a pollution source through capping contaminant sources may be the most effective control measure for discharges from inactive ore mining and dressing facilities.

(e) Treatment—A description of how storm water will be treated prior to discharging to waters of the United States if treatment of a storm water discharge is necessary. Storm water treatments include the following: chemical/physical treatment; oil/water separators; artificial wetlands or other equivalent measures.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), as well as information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(5) Comprehensive Site Compliance Evaluation. Procedures for qualified personnel to conduct site compliance evaluations at appropriate intervals specified in the plan, but, except as provided in paragraph XI.G.3.b.(5)(d) (below), in no case less than once a year. Such evaluations shall include:

(a) Visual inspection of areas contributing to a storm water discharge associated with industrial activity for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.G.3.a.(3) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.G.3.a.(4) of this section (Measures and Controls) shall be revised as appropriate within 30 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation unless additional time is authorized by the permit issuing authority.

(c) Preparation of a report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.G.3.b.(5)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where annual site compliance evaluations are shown in the plan to be impractical for inactive mining sites due to the remote location and inaccessibility of the site, site

evaluations required under this part shall be conducted at appropriate intervals specified in the plan, but, in no case less than once in 3 years.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], copper ore mining and dressing facilities must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Active copper ore mining and dressing facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table G-1 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table G-1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE G–1.—MONITORING REQUIREMENTS FOR ACTIVE FACILITIES

Pollutants of concern	Monitoring cut-off concentration
Chemical Oxygen Demand (COD).	120 mg/L
Total Suspended Solids (TSS)	100 mg/L
Nitrate plus Nitrite Nitrogen	0.68 mg/L

(1) Monitoring Periods. Active copper ore mining and dressing facilities shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or non-process water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table G-1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of the monitoring reports required under paragraph *b* below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under

paragraph *b.* below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b. Reporting. Permittees with active copper ore mining and dressing facilities shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet to this permit.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), active ore mining and dressing facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Visual Examination of Storm Water Quality. Mining facilities covered under this sector shall perform and document a visual examination of storm water discharges associated with industrial activity from each outfall, except discharges exempted below. The examination must be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event. Mining facilities must examine storm water quality at least once in each of the following periods: January through March; April through June; July through September; and October through December.

(1) Examinations shall be made of grab samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to conduct one of the required visual examinations during the required period as a result of adverse climatic conditions or inaccessibility, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

H. Storm Water Discharges Associated With Industrial Activity From Coal Mines and Coal Mining-Related Facilities

1. Discharges Covered Under This Section

The requirements listed under this section shall apply to storm water discharges from coal mining-related areas (SIC Major Group 12) if they are not subject to effluent limitations guidelines under 40 CFR Part 434.

a. Coverage. Storm water discharges from the following portions of coal mines may be eligible for this permit: haul roads (nonpublic roads on which coal or coal refuse is conveyed), access roads (nonpublic roads providing light vehicular traffic within the facility property and to public roadways), railroad spurs, sidings, and internal haulage lines (rail lines used for hauling coal within the facility property and to offsite commercial railroad lines or loading areas), conveyor belts, chutes, and aerial tramway haulage areas (areas under and around coal or refuse conveyor areas, including transfer stations), equipment storage and maintenance yards, coal handling buildings and structures, and inactive coal mines and related areas (abandoned and other inactive mines, refuse disposal sites and other mining-related areas on private lands).

When an industrial facility, described by the above coverage provisions of this

section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

b. Limitations. Storm water discharges from inactive mining activities occurring on Federal lands where an operator cannot be identified are not eligible for coverage under this permit.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges. In addition to the broad prohibition of non-storm water discharges of Part III.A.2. of the permit, point source discharges of pollutant seeps or underground drainage from inactive coal mines and refuse disposal areas that do not occur as storm water discharges in response to precipitation events are also excluded from coverage under this permit. In addition, floordrains from maintenance buildings and other similar drains in mining and preparation plant areas are prohibited.

3. Storm Water Pollution Prevention Plan Requirements

Most of the active coal mining-related areas, described in paragraph XI.H.1. above, are subject to sediment and erosion control regulations of the U.S. Office of Surface Mining (OSM) that enforces the Surface Mining Control and Reclamation Act (SMCRA). OSM has granted authority to most coal-producing states to implement SMCRA through State SMCRA regulations. All SMCRA requirements regarding control of erosion, siltation and other pollutants resulting from storm water runoff, including road dust resulting from erosion, shall be primary requirements of the pollution prevention plan and shall be included in the contents of the plan directly, or by reference. Where determined to be appropriate for protection of water quality, additional sedimentation and erosion controls may be warranted.

a. Contents of Plan. The plan shall include at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources that may reasonably be expected to add significant amounts of pollutants to storm water discharges or that may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials that may potentially be significant pollutant sources. Each plan shall include, at a minimum:

Drainage.

(i) A site map, such as a drainage map required for SMCRA permit applications, that indicate drainage areas and storm water outfalls. These shall include but not be limited to the following:

(a) Drainage direction and discharge points from all applicable mining-related areas described in Section XI.H.1.a. (discharges covered under this section) above, including culvert and sump discharges from roads and rail beds and also from equipment and maintenance areas subject to storm runoff of fuel, lubricants and other potentially harmful liquids.

(b) Location of each existing erosion and sedimentation control structure or other control measures for reducing pollutants in storm water runoff.

(c) Receiving streams or other surface water bodies.

(d) Locations exposed to precipitation that contain acidic spoil, refuse or unreclaimed disturbed areas.

(e) Locations where major spills or leaks of toxic or hazardous pollutants have occurred.

(f) Locations where liquid storage tanks containing potential pollutants, such as caustics, hydraulic fluids and lubricants, are exposed to precipitation.

(g) Locations where fueling stations, vehicle and equipment maintenance areas are exposed to precipitation.

(h) Locations at outfalls and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with the mining-related activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants that are likely to be present in storm water discharges associated with the activity. Factors to consider include the toxicity of the pollutant; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of any existing discharge sampling data describing pollutants in storm water discharges from the portions of the facility covered by this permit, including a summary of any sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: truck traffic on haul roads and resulting generation of sediment subject to runoff and dust generation; fuel or

other liquid storage; pressure lines containing slurry, hydraulic fluid or other potential harmful liquids; and loading or temporary storage of acidic refuse or spoil. Specific potential pollutants shall be identified, where known.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls.

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas that may contribute pollutants to storm water discharges in a clean, orderly manner. These would be practices that would minimize the generation of pollutants at the source or before it would be necessary to employ sediment ponds or other control measures at the discharge outlets. Where applicable, such measures or other equivalent measures would include the following: sweepers and covered storage to minimize dust generation and storm runoff; conservation of vegetation where possible to minimize erosion; watering of haul roads to minimize dust generation; collection, removal, and proper disposal of waste oils and other fluids resulting from vehicle and equipment maintenance; or other equivalent measures.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems. Where applicable, such measures would include the following: removal and proper disposal of settled solids in catch basins to allow sufficient retention capacity; periodic replacement of siltation control measures subject to deterioration such as straw bales; inspections of storage tanks and pressure lines for fuels, lubricants, hydraulic fluid or slurry to prevent leaks due to deterioration or faulty connections; or other equivalent measures.

(c) Spill Prevention and Response Procedures—Areas where potential spills that can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—In addition to or as part of the comprehensive site evaluation required under paragraph XI.H.3.a.(4) of this section, qualified facility personnel shall be identified to inspect designated areas of the facility at appropriate intervals specified in the plan. The following shall be included in the plan:

(i) Active Mining-Related Areas and Those Inactive Areas Under SMCRA Bond Authority—The plan shall require quarterly inspections by the facility personnel for areas of the facility covered by pollution prevention plan requirements. This inspection interval corresponds with the quarterly inspections for the entire facility required to be provided by SMCRA authority inspectors for all mining-related areas under SMCRA authority, including sediment and erosion control measures. Inspections by the facility representative may be done at the same time as the mandatory inspections performed by SMCRA inspectors. Records of inspections of the SMCRA *authority facility representative* shall be maintained.

(ii) Inactive Mining-Related Areas Not Under SMCRA Bond.—The plan shall require annual inspections by the facility representative except in situations referred to in paragraph XI.H.3.a.(4)(d) below.

(iii) Inspection Records—The plan shall require that inspection records of the facility representative and those of the SMCRA authority inspector shall be maintained. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges) along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges such as drainage from underground portions of inactive mines or floor drains from maintenance or coal handling buildings. The certification shall include the identification of potential significant sources of non-storm water discharges at the site, a description of the results of any test and/or evaluation, a description of the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit.

(ii) Except for flows from fire fighting activities, authorized sources of non-storm water listed in Part III.A.2. (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Any facility that is unable to provide the certification required (testing or other evaluation for non-storm water discharges) must notify the Director by [270 days after permit issuance] or, for facilities that begin to discharge storm water associated with industrial activity after [insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water to the storm discharge lines; and why adequate tests for such storm

discharge lines were not feasible. Non-storm water discharges to waters of the United States that are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion and reduce sediment concentrations in storm water discharges. As indicated in paragraph XI.H.3.a.(3) above, SMCRA requirements regarding sediment and erosion control measures are primary requirements of the pollution prevention plan for mining-related areas subject to SMCRA authority. The following sediment and erosion control measures or other equivalent measures, should be included in the plan where reasonable and appropriate for all areas subject to storm water runoff:

(i) Stabilization Measures—Interim and permanent stabilization measures to minimize erosion and lessen amount of structural sediment control measures needed, including: mature vegetation preservation; temporary seeding; permanent seeding and planting; temporary mulching, matting, and netting; sod stabilization; vegetative buffer strips; temporary chemical mulch, soil binders, and soil palliatives; nonacidic roadsurfacing material; and protective trees.

(ii) Structural Measures—Structural measures to lessen erosion and reduce sediment discharges, including: silt fences; earth dikes; straw dikes; gradient terraces; drainage swales; sediment traps; pipe slope drains; porous rock check dams; sedimentation ponds; riprap channel protection; capping of contaminated sources; and physical/chemical treatment of storm water.

(i) Management of Flow—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (other than those as sediment and erosion control measures listed above) used to manage storm water runoff in a manner that reduces pollutants in storm water runoff from the site. The plan shall provide that the measures, which the permittee determines to be reasonable and appropriate, shall be implemented and maintained. Appropriate measures may include: discharge diversions; drainage/storm water conveyances; runoff dispersion; sediment control and collection; vegetation/soil stabilization; capping of contaminated sources; treatment; or other equivalent measures.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with coal mining-related areas shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. These areas include haul and access roads; railroad spurs, sidings, and internal haulage lines; conveyor belts, chutes and aerial tramways; equipment storage and maintenance yards; coal handling buildings and structures; and inactive mines and related areas. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures, as indicated in paragraphs XI.H.3.a.(3)(h) and XI.H.3.a.(3)(i) above and where identified in the plan, shall be observed to ensure that they are operating correctly. A visual evaluation of any equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan, in accordance with paragraph XI.H.3.a.(2) of this section, and pollution prevention measures and controls identified in the plan, in accordance with paragraph XI.H.3.a.(3) of this section, shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner. For inactive mines, such revisions may be extended to a maximum of 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.H.3.a.(4)(b) above shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection. Where annual site compliance evaluations are shown in the plan to be impractical for inactive mining sites due to the remote location and inaccessibility of the site, site inspections required under this part shall be conducted at appropriate intervals specified in the plan, but, in no case less than once in 3 years.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B. of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with coal mining activities must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Coal mining facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table H-1 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table H-1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE H–1.—MONITORING REQUIREMENTS FOR COAL MINING FACILITIES

Pollutants of concern	Cut-off concentration (mg/L)
Total Recoverable Aluminum	0.75
Total Recoverable Iron	1.0
Total Suspended Solids	100

(1) Monitoring Periods. Coal mining facilities shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next monitoring period and submit the data along with the data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table H-1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph *b.* below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph *b.* below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b. Reporting. Permittees shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of

Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.B.1. of the permit.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph *b.* (above), coal-mining related facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph *b.* (above).

c. Visual Examination of Storm Water Quality. Coal mining-related facilities shall perform and document a visual examination of a representative storm water discharge at the following frequencies: quarterly for active areas under SMCRA bond located in areas with average annual precipitation over 20 inches; semi-annually for inactive areas under SMCRA bond, and active areas under SMCRA bond located in areas with average annual precipitation of 20 inches or less; visual examinations are not required at inactive areas not under SMCRA bond.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water runoff or snow melt: Quarterly—January through March; April through June; July through September; and October through December. Semi-annually—January through June and July through December.

(2) Examinations shall be made of samples collected within the first 60 minutes (or as soon thereafter as practical, but not to exceed two hours) of when the runoff or snow melt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual will carry out the collection and examination of discharges for the life of the permit.

(3) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(6) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

I. Storm Water Discharges Associated With Industrial Activity From Oil and Gas Extraction Facilities

1. Discharges Covered Under This Section

a. Coverage. This permit covers all existing point source discharges of storm water associated with industrial activity to waters of the United States from oil and gas facilities listed under Standard Industrial Classification (SIC) Major Group 13 which are required to be permitted under 40 CFR 122.26. These include "* * * oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contract with or that has come into contact with any overburden raw material, intermediate products, finished products, by-products or waste products located on the site of such operations." Contaminated storm water discharges from petroleum refining or drilling operations that are subject to nationally established BAT or BPT guidelines found at 40 CFR 419 and 435 respectively are not included. Industries in SIC Major Group 13 include the extraction and production of crude oil, natural gas, oil sands and shale; the production of hydrocarbon liquids and natural gas from coal; and associated oil field service, supply and repair industries.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

b. Limitations. Storm water discharges associated with industrial activity from inactive oil and gas operations occurring on Federal lands where an operator cannot be identified are not covered by this permit.

2. Special Conditions

There are no additional requirements beyond those listed in Part III. of this permit.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part IX.I.3.a.(1)(c) (Spills and Leaks) of this permit have occurred, location of any areas where RQ releases have occurred; and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas, chemical mixing areas, construction and drilling areas. The site map will indicate all areas subject to the effluent guidelines requirement of "No Discharge" in accordance with 40 CFR 435.32 and the existing structural controls to achieve compliance with the "No Discharge" requirement. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. The permittee should consider the cause of RQ releases, the materials used to contain and remediate releases, and any other aspect of releases or clean-up which could potentially contribute pollutants to a storm water discharge. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; chemical, cement, mud or gel mixing activities; outdoor manufacturing or processing activities; drilling or mining activities; significant dust or particulate generating processes; and onsite waste disposal practices, equipment cleaning and rehabilitation activities. List any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

In its description of potential pollutant sources, a facility must include information about the RQ release which triggered the permit application requirements. Such information must include: the nature of the release (e.g., spill of oil from a drum storage area); the amount of oil or hazardous substance released; amount of substance recovered; date of the release; cause of the release (e.g., poor handling techniques as well as lack of containment in area); area affected by release, including land and waters; procedure to cleanup release; actions or procedures implemented to prevent or better respond to a release; and remaining potential contamination of storm water from release. The analysis shall take into account human health risks, the control of drinking water intakes, and the designated uses of the receiving stream.

(3) Measures and Controls. Each facility covered by this permit shall develop and implement storm water management controls appropriate for the facility. The controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such measures:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility

equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems. The preventative maintenance program shall also include the inspection of all on site and off site mixing tanks and equipment, and all vehicles which carry supplies and chemicals to oil field activities.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Materials shall be stored indoors where possible, and drainage systems designed to discharge downstream from drinking water intakes. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—In addition to or as part of the comprehensive site evaluation required under paragraph XI.I.3.a.(4) of this section, qualified facility or plant personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. All equipment and areas addressed in the pollution prevention plan shall be inspected at a minimum of 6-month intervals. Equipment and vehicles which store, mix or transport hazardous materials will be inspected routinely, but not less than quarterly. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. All records shall be kept for a period of not less than 3 years.

(g) Non-storm Water Discharges

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.I.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2. (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion. Unless covered by the General Permit for Construction Activity (57 FR 41209), the additional erosion control requirement for well drillings oil, sand, and shale mining areas are as follows:

(i) Site Description—Each plan shall provide a description of the following: (1) A description of the nature of the exploration activity; (2) estimates of the total area of the site and the area of the site that is expected to be disturbed due to the exploration activity; (3) an estimate of the runoff coefficient of the site; (4) a site map indicating drainage patterns and approximate slopes, the location of major control structures identified in the plan, and surface waters; and (5) the name of the receiving water(s) and the ultimate receiving water(s) of the runoff.

(ii) Controls—The pollution prevention plan shall include a description of controls appropriate for the activity and implement such controls. The description of controls shall address the following minimum components:

(a) A description of vegetative practices designed to preserve existing vegetation where attainable and revegetate open areas as soon as practicable after grade drilling. Such practices may include: temporary seeding, permanent seeding, mulching, sod stabilization, vegetative buffer strips, protection of trees, or other equivalent measures. The operator shall initiate appropriate vegetative practices on all disturbed areas within 14 calendar days of the last activity at that area.

(b) A description of structural practices that, to the degree attainable, divert flows from exposed soils, store flows or otherwise limit runoff from exposed areas of the site. Such practices

may include straw bale dikes, silt fences, earth dikes, brush barriers, drainage swales, check dams, subsurface drain, pipe slope drain, level spreaders storm drain inlet protection, rock outlet protection, sediment traps, temporary sediment basins, or other equivalent measures.

(iii) Offsite vehicle tracking of sediments shall be minimized.

(iv) Procedures in a plan shall provide that all erosion controls on the site are inspected at least once every 7 calendar days. Weekly inspections are necessary to ensure erosion controls continue to effectively reduce the amount of sediment carried offsite. A silt fence or silt trap is no longer effective when filled with silt.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide the measures that the permittee determines to be reasonable and appropriate which shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, wet detention/retention devices, or other equivalent measures.

(j) Reportable Quantity (RQ) Release—The permittee must describe the measures taken to clean up RQ releases or related spills of materials, as well as measures proposed to avoid future releases of RQs. Such measures may include, among others: Improved handling or storage techniques; containment around handling areas of liquid materials; and use of improved spill cleanup materials and techniques.

(k) Vehicle and Equipment Storage Areas—The storage of vehicles and equipment awaiting or having completed maintenance must be confined to designated areas (delineated on the site map). The plan must describe measures that prevent or minimize contamination of the storm water runoff from these areas. The facility may consider the use of drip pans under vehicles and equipment, indoor storage of the vehicles and equipment, installation of berming and diking of this area, or other equivalent measures.

(l) Vehicle and Equipment Cleaning and Maintenance Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for vehicle and equipment cleaning. The facility may consider performing all cleaning operations indoors, covering the cleaning operation, ensuring that all washwaters drain to a sanitary sewer, and/or collecting the storm water runoff from the cleaning area and providing treatment or recycling. The discharge of vehicle and equipment wash waters, including tank cleaning operations, are not authorized by this permit and must be authorized under a separate NPDES permit or discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements.

The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for vehicle and equipment maintenance and rehabilitation. The facility may consider performing all maintenance activities indoors, using drip pans, maintaining an organized inventory of materials used in the shop, draining all parts of fluids prior to disposal, prohibiting the practice of hosing down the shop floor where the practice would result in the exposure of pollutants to storm water, using dry cleanup methods, collecting the storm water runoff from the maintenance area and providing treatment or recycling, or other equivalent measures.

(m) Materials and Chemical Storage Areas—Storage units of all chemicals and materials (e.g., fuels, oils, used filters, spent solvents, paint wastes, radiator fluids, transmission fluids, hydraulic fluids, detergents drilling mud components, acids, organic additives) must be maintained in good condition so as to prevent contamination of storm water. Hazardous materials must be plainly labeled. The plan must describe measures that prevent or minimize contamination of the storm water runoff from such storage areas. The facility may consider indoor storage of the materials and/or installation of berming and diking at the area.

(n) Chemical Mixing Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from chemical mixing areas. The facility may consider covering the mixing area, using spill and overflow protection, minimizing runon of storm water to the mixing area, using dry cleanup methods, and/or collecting the storm water runoff and providing treatment or recycling. The facility may consider installation of berming and diking of the area.

Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity (e.g., materials and chemical storage areas, vehicle and equipment cleaning and maintenance areas, vehicle and equipment storage areas, chemical mixing areas, and areas of materials handling at the drill site areas) shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.I.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.I.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, and major observations relating to the implementation of the storm water pollution prevention plan the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in

accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional requirements beyond those listed in Part V.B. of this permit.

5. Monitoring and Reporting Requirements

a. Monitoring Requirements

(1) Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) must be made at least once in each designated period [described in (a), below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(a) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(b) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual will carry out the collection and examination of discharges for the life of the permit.

(c) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(d) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(e) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(f) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

J. Storm Water Discharges Associated With Industrial Activity From Mineral Mining and Processing Facilities

1. Discharges Covered Under This Section

This permit covers all existing point source discharges of storm water associated with industrial activity to waters of the United States from active and inactive mineral mining and processing facilities (generally identified by Standard Industrial Classification (SIC) Major Group 14), except for storm water discharges identified under paragraph XI.J.1.a.

This permit may authorize storm water discharges associated with industrial activity that are mixed with storm water discharges associated with industrial activity from construction activities, provided that the storm water discharge from the construction activity is in compliance with the terms, including applicable Notice of Intent (NOI) or application requirements, of a different NPDES general permit or individual permit authorizing such discharges.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

a. Limitations on Coverage. The following storm water discharges associated with industrial activity are not authorized by this permit:

(1) Storm water discharges associated with industrial activity which are subject to an existing effluent limitation guideline (40 CFR Part 436), except mine dewatering discharges composed entirely of storm water or ground water seepage from construction sand and gravel, industrial sand, and crushed stone mining facilities located in Region VI (the States of Louisiana, New Mexico, Oklahoma, and Texas) and Arizona.

(2) Storm water discharges associated with industrial activity from inactive mineral mining activities occurring on Federal lands where an operator cannot

be identified are not eligible for coverage under this permit.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges. This section of today's permit does not cover any discharge subject to process wastewater effluent limitation guidelines, including storm water that combines with process wastewater. Part III.A.2 of today's permit does allow certain non-storm water discharges to be covered by this permit.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each storm water pollution prevention plan must describe industrial activities, significant materials, and physical features of the facility that may contribute to storm water runoff or, during periods of dry weather, result in dry weather flows and mine pumpout. Plans must describe the following elements:

(a) Drainage—The plan must contain a map of the site that shows the pattern of storm water drainage, structural or nonstructural features that control pollutants in storm water runoff and process wastewater discharges, surface water bodies (including wetlands), places where significant materials are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. The map also must show areas where the following activities take place: fueling, vehicle and equipment maintenance and/or cleaning, loading and unloading, material storage (including tanks or other vessels used for liquid or waste storage), material processing, and waste disposal, haul roads, access roads, and rail spurs. In addition, the map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(b) Inventory of Exposed Materials—Facility operators are required to carefully conduct an inspection of the site and related records to identify significant materials that are or may be exposed to storm water. The inventory must address materials that within 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit have been handled, stored, processed, treated, or disposed of in a manner to allow exposure to storm water. Findings of the inventory must be documented in detail in the pollution prevention plan. At a minimum, the plan must describe the method and location of onsite storage or disposal; practices used to minimize contact of materials with rainfall and runoff; existing structural and nonstructural controls that reduce pollutants in storm water runoff; existing structural controls that limit process wastewater discharges; and any treatment the runoff receives before it is discharged to surface waters or a separate storm sewer system. The description must be updated whenever there is a significant change in the types or amounts of materials, or material management practices, that may affect the exposure of materials to storm water.

(c) Significant Spills and Leaks—The plan must include a list of any significant spills and leaks of toxic or hazardous pollutants that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Section 311 of CWA (see 40 CFR 110.10 and 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR 302.4). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements and releases of materials that are not classified as oil or a hazardous substance.

(d) Sampling Data—Any existing data on the quality or quantity of storm water discharges from the facility must be described in the plan. The description should include a discussion of the methods used to collect and analyze the data. Sample collection points should be identified in the plan and shown on the site map.

(e) Risk Identification and Summary of Potential Pollutant Sources—The description of potential pollution sources culminates in a narrative assessment of the risk potential that sources of pollution pose to storm water quality. This assessment should clearly point to activities, materials, and physical features of the facility that have a reasonable potential to contribute significant amounts of pollutants to storm water. Any such industrial activities, significant materials, or features must be addressed by the measures and controls subsequently described in the plan. In conducting the assessment, the facility operator must consider the following activities: loading and unloading operations; outdoor storage activities; outdoor processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The assessment must list any significant pollution sources at the site and identify the pollutant parameter or parameters (i.e., total suspended solids, total dissolved solids, etc.) associated with each source.

(3) Measures and Controls. Following completion of the source identification and assessment phase, the permittee must evaluate, select, and describe the pollution prevention measures, best management practices (BMPs), and other controls that will be implemented at the facility. The permittee must assess the applicability of the following BMPs for their site: discharge diversions, drainage/storm water conveyance systems, runoff dispersions, sediment control and collection mechanisms, vegetation/soil stabilization, and capping of contaminated sources. In addition, BMPs include processes, procedures, schedules of activities, prohibitions on practices, and other management practices that prevent or reduce the discharge of pollutants in storm water runoff.

The pollution prevention plan must discuss the reasons each selected control or practice is appropriate for the facility and how each will address the potential sources of storm water pollution. The plan also must include a schedule specifying the time or times during which each control or practice will be implemented. In addition, the plan should discuss ways in which the controls and practices relate to one another and, when taken as a whole, produce an integrated and consistent approach for preventing or controlling potential storm water contamination problems.

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm waters discharges in a clean, orderly manner.

(b) Preventive Maintenance—The maintenance program requires periodic

removal of debris from discharge diversions and conveyance systems. These activities should be conducted in the spring, after snowmelt, and during the fall season. Permittees using ponds to control their effluents frequently use impoundments or sedimentation ponds as their BAT/BCT. Maintenance schedules for these ponds must be provided in the pollution prevention plan.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—Operators of active facilities are required to conduct quarterly visual inspections of all BMPs. Temporarily and permanently inactive operations are required to perform annual inspections. The inspections shall include: (1) An assessment of the integrity of storm water discharge diversions, conveyance systems, sediment control and collection systems, and containment structures; (2) visual inspections of vegetative BMPs, serrated slopes, and benched slopes to determine if soil erosion has occurred; and (3) visual inspections of material handling and storage areas and other potential sources of pollution for evidence of actual or potential pollutant discharges of contaminated storm water.

The inspection must be made at least once in each designated period during daylight hours unless there is insufficient rainfall or snow-melt to produce a runoff event. Inspections shall be conducted in each of the following periods for the purposes of inspecting storm water quality associated with storm water runoff and snow melt: January through March (storm water runoff or snow melt); April through June (storm water runoff); July through September (storm water runoff); October through December (storm water runoff or snow melt).

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the compone nts and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents such as spills or other discharges along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. The permittee must describe procedures for developing and retaining records on the status and effectiveness of plan implementation. The plan must address spills, monitoring, and BMP inspection and maintenance activities. Ineffective BMPs must be recorded and the date of their corrective action noted.

(g) Non-storm Water Discharges

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with Part XI.J.3.a.(g)(iii) (Failure to Certify) of this permit.

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify.—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe the procedure of any test conducted for the presence of non-storm water discharges to the storm sewer and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

Permittees must indicate the location and design for proposed BMPs to be implemented prior to land disturbance activities. For sites already disturbed but without BMPs, the permittee must indicate the location and design of BMPs that will be implemented. The permittee is required to indicate plans for grading, contouring, stabilization, and establishment of vegetative cover for all disturbed areas, including road banks. Reclamation activities must continue until final closure notice has been issued.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see Part XI.J.3.a.(2) (Description of Potential Pollutant Sources) of this permit] shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of

collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, wet detention/retention devices, or equivalent measures. In addition, the permittee must describe the storm water pollutant source area or activity (i.e., loading and unloading operations, raw material storage piles, etc.) to be controlled by each storm water management practice.

(*4*) *Comprehensive Site Compliance Evaluation.* Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. When annual compliance evaluations are shown in the plan to be impractical for inactive mining sites, due to remote location and inaccessibility, site evaluations must be conducted at least once every 3 years. Such evaluations shall provide:

(*a*) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(*b*) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with Part XI.J.3.a.(2) (Description of Potential Pollutant Sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.J.3.a.(3) (Measures and Controls) of this permit shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(*c*) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.J.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(*d*) The storm water pollution prevention plan must describe the scope and content of comprehensive site evaluation that qualified personnel will conduct to 1) confirm the accuracy of the description of potential pollution sources contained in the plan, 2) determine the effectiveness of the plan, and 3) assess compliance with the terms and conditions of the permit. Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

Except as discussed in *a* below, there are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

a. Region VI—Construction Sand and Gravel; Industrial Sand, and Crushed Stone Mining, Mine Dewatering. Any discharge composed entirely of storm water or ground water seepage that derives from mine dewatering activities at construction sand and gravel, industrial sand, or crushed stone mining facilities located in Region VI (the States of Louisiana, New Mexico, Oklahoma, and Texas) and in Arizona shall not exceed a maximum concentration for any day of 45 mg/L or an average of daily values for 30 consecutive days of 25 mg/L Total Suspended Solids (TSS) nor the 6.0 to 9.0 range limitation for pH. The discharge from the dewatering activity shall not be diluted with other storm water runoff or flows to meet this limitation. Dischargers subject to these numeric effluent limitations must be in compliance with these limits upon commencement of coverage and for the entire term of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with dimension and crushed stone, and nonmetallic minerals (except fuels), and sand and gravel mining activities must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Such facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table J–1 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table J–1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE J–1.—MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Sand and Gravel Mining	
Nitrate plus Nitrite Nitrogen ..	0.68 mg/L.
Total Suspended Solids (TSS).	100 mg/L.
Dimension and Crushed Stone and Nonmetallic Minerals (except fuels):	
Total Suspended Solids (TSS).	100 mg/L.

(*1*) *Monitoring Periods.* Facilities subject to analytical monitoring requirements shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(*2*) *Sample Type.* A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when

sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) *Sampling Waiver*

(a) *Adverse Conditions*—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with the data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) *Low Concentration Waiver*—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table J–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) *Representative Discharge.* When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph *b* below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*b*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent guidelines.

b. Reporting. Permittees with dimension and crushed stone, sand and gravel or nonmetallic mineral (except fuels) mining facilities shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report Form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), sand and gravel mining facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Quarterly Visual Examination of Storm Water Quality. Mineral mining and processing facilities covered under this sector shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examinations must be made at least once in each designated period [described in (1), below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; June through September; and October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual will carry out the collection and examination of discharges for the life of the permit.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(3) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

d. Compliance Monitoring Requirements. Permittees with construction sand and gravel, industrial sand, and crushed stone mining facilities in Region VI that have mine dewatering discharges composed entirely of storm water or ground water seepage which are covered by this permit must monitor the discharge from the dewatering activity for the presence of TSS and pH at least quarterly (four times per year). Facilities must report in accordance with 5.d.(2) below (reporting). In addition to the parameters listed above, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

(1) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

(2) Reporting. Permittees with mine dewatering discharges from construction sand and gravel, industrial sand, or crushed stone mining facilities located in Region VI and Arizona shall submit monitoring results obtained during the reporting period beginning [insert date of permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following [insert month after permit issuance date]. Signed copies of Discharge Monitoring Reports shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office indicated in Part VI.B. of this permit. For each outfall, one signed Discharge Monitoring Report form shall be submitted for each storm event sampled.

(3) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph (2) (above), permittees with discharges of material storage runoff from cement manufacturing facilities through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph 5.d.(3) (above).

K. Storm Water Discharges Associated With Industrial Activity From Hazardous Waste Treatment, Storage, or Disposal Facilities

1. Discharges Covered Under This Section

The requirements listed under this section shall apply to storm water discharges associated with industrial activity from facilities that treat, store, or dispose of hazardous wastes, including those that are operating under interim status or a permit under subtitle C of RCRA.

Coverage under this sector for facilities located in Region VI is limited to Hazardous Waste Treatment Storage or Disposal Facilities (TSDFs) that are self-generating or totally residential wastes and to those facilities that only store hazardous waste and do not treat or dispose. These permits are issued by EPA Region VI for Louisiana (LAR05*###), New Mexico

(NMR05*###), Oklahoma (OKR05*###), Texas (TXR05*###), and Federal Indian Reservations in these States (LAR05*##F, NMR05*##F, OKR05*##F, or TXR05*##F). Disposal facilities that have been properly closed and capped, and have no significant materials exposed to storm water, are considered inactive and do not require permits [(40 CFR 122.26(b)(14)]. Prohibited from coverage under this sector are those commercial hazardous wastes disposal and treatment facilities located in Region VI that dispose and treat on a commercial basis any produced hazardous waste (not their own) as a service to generators.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitering and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges. There are no additional requirements under this section other than those stated in Part III.A.2 of this permit.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part IV.D.3.c. (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., chemical oxygen demand, etc.) of concern shall be identified.

(e) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., berms, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause

breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—In addition to or as part of the comprehensive site evaluation required under paragraph XI.K.3.a.(4) of this section, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph (iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.K.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, wet detention/retention devices, or other equivalent measures.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.K.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.K.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2

weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph (4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those in Part V.B of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with hazardous waste treatment, storage, or disposal facilities (TSDFs) must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). TSDFs are required to monitor their storm water discharges for the pollutants of concern listed in Table K–1 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table K–1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE K–1.—INDUSTRY MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Ammonia	19.0 mg/L.
Total Recoverable Magnesium*.	0.0636 mg/L.
Chemical Oxygen Demand (COD).	120.0 mg/L.
Total Recoverable Arsenic.	0.16854 mg/L.
Total Recoverable Cadmium.	0.0159 mg/L.
Total Cyanide**	0.0636 mg/L.
Total Recoverable Lead	0.0816 mg/L.
Total Recoverable Mercury.	0.0024 mg/L.
Total Recoverable Selenium.	0.2385 mg/L.
Total Recoverable Silver	0.0318 mg/L.

*The MDL for magnesium is 0.02 mg/L method 200.6.

**The MDL for cyanide is 0.02 mg/L method 335.1, 335.2, or 335.3.

(1) Monitoring Periods. TSDFs shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table K–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility which drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the

effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph b below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.B. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*b*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b. Reporting. Permittees with TSDFs shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), TSDFs with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a representative storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each of the following periods: January through March, April through June, July through September, and October through December during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(*1*) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(*2*) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(*3*) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the observation data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(*4*) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(*5*) When a discharger is unable to conduct visual storm water examinations at an inactive and

unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

L. Storm Water Discharges Associated With Industrial Activity From Landfills and Land Application Sites

1. Discharges Covered Under This Section

a. Coverage. The requirements listed under this section shall apply to storm water discharges associated with industrial activity from waste disposal at landfills and land application sites that receive or have received industrial wastes. Landfill and land application operators that have storm water discharges from other types of industrial activities such as vehicle maintenance, truck washing, and/or recycling may be subject to additional requirements specified elsewhere in this permit.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

b. Limitations. Storm water discharges associated with industrial activities from inactive landfills and land application sites occurring on Federal lands where an operator cannot be identified are ineligible for coverage under this permit.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges. In addition to the broad non-storm water prohibition in Part III.A of today's permit, the discharge of leachate and vehicle and equipment washwaters to waters of the United States or a municipal separate storm sewer system is not authorized by this permit. Operators with such discharges must obtain coverage under a separate NPDES permit (other than this permit). Discharges from open dumps as defined under RCRA are also not authorized under this permit (e.g., leachate, runoff).

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutant to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations of active and closed landfill cells or trenches, locations of active and closed land application areas, locations of any known leachate springs or other areas where uncontrolled leachate may commingle with runoff, locations of any leachate collection and handling systems, locations where major spills or leaks identified under Part XI.L.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and locations of the following activities where such activities are exposed to precipitation: fueling station, vehicle and equipment maintenance and/or cleaning areas, and waste and other significant material loading/unloading and storage areas. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemicals; quantities of chemicals used, produced or discharged; the likelihood of contact with storm water; and the history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, or disposed of in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives. The inventory of exposed materials shall include, but shall not be limited to the significant material management practices employed.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water of sampling data collected during the term of this permit. Permittees shall also provide all available sampling data for leachate generated at the site.

(e) Risk Identification and Summary of Potential Pollutant Sources—Include a narrative description of potential

pollutant sources associated with any of the following, providing they occur at the facility: fertilizer, herbicide and pesticide application; earth/soil moving; waste hauling and loading/unloading; outdoor storage of significant materials including daily, interim and final cover material stockpiles as well as temporary waste storage areas; exposure of active and inactive landfill and land application areas; uncontrolled leachate flows; failure or leaks from leachate collection and treatment systems; haul roads; and vehicle tracking of sediments. The description shall specifically list any significant potential sources of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. Permittees shall consider providing protected materials storage areas for pesticides, herbicides, fertilizers, and other significant materials.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

Where applicable, permittees addressed by this section shall also: (1) maintain containers used for outdoor chemical and significant materials storage to prevent leaking or rupture; (2) maintain all elements of leachate collection and treatment systems to prevent commingling of leachate with storm water; and (3) maintain the integrity and effectiveness of any intermediate or final cover, including making repairs to the cover as necessary to minimize the effects of settlement, sinking, and erosion.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan.

(i) For operating landfills and land application sites, inspections shall be conducted at least once every 7 days. Qualified personnel shall inspect areas of landfills that have not yet been finally stabilized, active land application areas, areas used for storage of materials/wastes that are exposed to precipitation, stabilization and structural control measures, leachate collection and treatment systems, and locations where equipment and waste trucks enter and exit the site. Where landfill areas have been finally stabilized and where land application has been completed, or during seasonal arid periods in arid areas (areas with an average annual rainfall of 0 to 10 inches) and semiarid areas (areas with an average annual rainfall of 10 to 20 inches), inspections will be conducted at least once every month. Erosion and sediment control measures shall be observed to ensure they are operating correctly.

(ii) For inactive landfills and land application sites, inspections shall be conducted at least quarterly, and qualified personnel shall inspect: landfill stabilization and structural erosion control measures and leachate collection and treatment systems, and all closed land application areas.

A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. The pollution prevention plan shall be revised to address any problems found during inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as conducting inspections, spill response, good housekeeping, conducting inspections and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. Landfill operators shall provide for a tracking system for the types of wastes disposed of in each cell or trench of a landfill. Land application site operators shall track the types and quantities of wastes applied in specific areas.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges including leachate and vehicle wash waters. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.L.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water

discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 180 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date of permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the Unites States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

Landfill operators shall provide for temporary stabilization of materials stockpiled for daily, intermediate and final cover. Stabilization practices to consider include, but are not limited to, temporary seeding, mulching, and placing geotextiles on the inactive portions of the stockpiles.

Landfill operators shall provide for temporary stabilization of inactive areas of the landfill which have an intermediate cover but no final cover.

Landfill operators shall provide for temporary stabilization of any landfill areas which have received a final cover until vegetation has established itself. Land application site operators shall also stabilize areas where waste application has been completed until vegetation has been established.

(i) Management of Runoff—The plan shall also contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.L.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: silt fences, earth dikes, gradient terraces, drainage swales, sediment traps, check dams, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions and temporary or permanent sediment basins, or other equivalent measures. Structural practices should be placed on upland soils as practicable.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity at landfill and land application sites shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.L.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.L.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those in Part V.B of this permit.

5. Monitoring and Reporting Requirements

(a) Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with landfill/land application sites must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Landfill/land application sites are required to monitor their storm water discharges for the pollutants of concern listed in Table L–1 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table L–1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE L–1.—INDUSTRY MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Suspended Solids (TSS)[i].	100 mg/L
Total Recoverable Iron[ii] .	1.0 mg/L

[i] Applicable to all landfill and land application sites.

[ii] Applicable to all facilities except MSWLF areas closed in accordance with 40 CFR 258.60 requirements.

(1) Monitoring Periods. Landfill/land application sites shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable, permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (e.g., drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table L–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility which drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph (b) below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity, that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of the fact sheet to this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (b) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

(b) Reporting. Permittees with landfill/land application sites shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one Discharge Monitoring

Report form must be submitted per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet to this permit.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above) landfill/land application sites, with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

(c) Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated period [described in (1) below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term.

(3) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) When a discharger is unable to conduct a visual examination as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(6) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

6. Definition

"Inactive Landfill"— For the purposes of this permit, a landfill is considered inactive when, on a permanent basis, it will no longer receive waste and has completed closure in accordance with any applicable Federal, State, and/or local requirements.

M. Storm Water Discharges Associated With Industrial Activity From Automobile Salvage Yards

1. Discharges Covered Under This Section

The requirements of this section apply to point source discharges of storm water associated with industrial activity from facilities engaged in dismantling or wrecking used motor vehicles for parts recycling or resale and for scrap (Standard Industrial Classification (SIC) Code 5015).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Storm Water Pollution Prevention Plan Requirements

(a.) Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each storm water pollution prevention plan must describe industrial activities, significant

materials, and physical features of the facility that may contribute to storm water runoff or, during periods of dry weather, result in dry weather flows. Plans must include the following elements:

(a) Site Map—The plan must contain a map of the site that shows structural features that control pollutants in storm water runoff[4] and process wastewater discharges, surface water bodies (including wetlands), places where significant materials are exposed to rainfall and runoff, and locations of major spills and leaks that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. The map must also indicate the flow direction of storm water runoff. The location of each storm water outfall associated with an industrial activity, as well as an outline of the drainage area for each storm water outfall and an indication of the types of discharges in each drainage area must be indicated. The map must indicate the location of each monitoring point. The map must include an estimation (in acres) of the total area used for industrial activity including, but not limited to, dismantling, storage, and maintenance of used motor vehicles and motor vehicle parts. The map must also indicate the location of the following activities where such activities are exposed to precipitation: vehicle storage areas; dismantling areas; parts storage areas, including engine blocks, tires, hub caps, batteries, hoods, and mufflers; fueling stations; vehicle and equipment maintenance areas; cleaning areas (parts, vehicles, and/or equipment); loading and unloading areas; locations used for the treatment, storage, and disposal of wastes; and liquid storage tanks and drums for fuel and other fluids.

(b) Inventory of Potential Pollutant Sources—Facility operators are required to carefully conduct an inspection of the site to identify significant materials exposed to precipitation that may contribute pollutants to storm water discharges. The inventory must address materials that within 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit have been handled, stored, processed, treated, or disposed of in a manner to allow exposure to storm water. Findings of the inventory must be documented in detail in the pollution prevention plan. At a minimum, the plan must describe the method and location of onsite storage or disposal; practices used to minimize contact of materials with rainfall and runoff; existing structural and nonstructural controls that reduce pollutants in storm water runoff; existing structural controls that prohibit/control process wastewater discharges; and any treatment the runoff receives before it is discharged to surface waters or through a separate storm sewer system. The description must be updated whenever there is a significant change in the types or amounts of materials, or material management practices, that may affect the exposure of materials to storm water.

(c) Significant Spills and Leaks—The plan must include a list of any significant spills and leaks of toxic or hazardous pollutants that occurred in the 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Section 311 of CWA (see 40 CFR 110.10 and 40 CFR 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR 302.4). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements and releases of materials that are not classified as oil or a hazardous substance. This list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—Any existing data or data collected during the term of this permit describing the quality or quantity of storm water discharges from the facility must be summarized in the plan. The description should include a discussion of the methods used to collect and analyze the data. Sample collection points should be identified in the plan and shown on the site map.

(e) Summary of Potential Pollutant Sources—The description of potential pollution sources should clearly point to activities, materials, and physical features of the facility that have a reasonable potential to contribute significant amounts of pollutants to storm water discharges. Any such industrial activities, significant materials, or features must be addressed by the measures and controls subsequently described in the plan. In conducting the assessment, the facility operator must consider the potential for the following activities to contribute pollutants: vehicle storage areas; dismantling areas; parts storage areas, including engine blocks, tires, hub caps, batteries, and hoods; fueling stations; vehicle and equipment maintenance areas; cleaning areas (parts and vehicles and/or equipment); loading/unloading areas; locations used for the treatment, storage, and disposal of wastes; and liquid storage tanks and drums for fuel and other fluids.

The assessment must identify the pollutant parameter or parameters (i.e., copper, iron, lead, oil and grease, total suspended solids, etc.) associated with each pollutant source.

(3) Measures and Controls. Following completion of the source identification and assessment phase, the permittee must evaluate, select, and describe the pollution prevention measures, best management practices (BMPs), and other controls that will be implemented at the facility. BMPs include processes, procedures, schedules of activities, prohibitions on practices, and other management practices that prevent or reduce the discharge of pollutants in storm water runoff.

The pollution prevention plan must discuss the reasons each selected control or practice is appropriate for the facility and how each will address the potential sources of storm water pollution. The plan also must include a schedule specifying the time or times during which each control or practice will be implemented. In addition, the plan should discuss ways in which the controls and practices relate to one another and, when taken as a whole, produce an integrated and consistent approach for preventing or controlling potential storm water contamination problems.

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner.

(b) Preventive Maintenance—The preventive maintenance program shall schedule periodic inspections and ensure appropriate maintenance of storm water management devices and facility equipment and systems. This program will address conditions that could cause breakdowns or failures resulting in the discharge of pollutants to surface waters. The maintenance program shall include periodic removal of debris from discharge diversions, conveyance systems, and impoundments/ponds. These activities should be conducted in the spring, after snow melt, and during the fall season. Maintenance schedules for sedimentation/impoundments must be provided in the pollution prevention plan.

(c) Spill and Leak Prevention and Response Procedures—Areas where potential spills which can contribute

[4] Features such as grass swales and vegetative buffer strips also should be shown.

pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel. After clean up from a spill, absorbents must be promptly placed in containers for proper disposal. All vehicles that are intended to be dismantled must be properly drained of all fluids upon arrival at the site, or as soon as feasible thereafter, or other equivalent means must be taken to prevent leaks or spills of such fluids.

(d) Inspections—Upon arrival at the site, or as soon as feasible thereafter, vehicles must be inspected for leaks. Any equipment containing oily parts, hydraulic fluids, or any other types of fluids shall be inspected at least quarterly (four times per year) for signs of leaks. Any outdoor storage of fluids including, but not limited to, brake fluid, transmission fluid, radiator water, and antifreeze, must be inspected at least quarterly for leaks. All outdoor liquid storage containers (e.g., tanks, drums) must be inspected at least quarterly for leaks.

Qualified facility personnel are required to conduct quarterly visual inspections of BMPs. The inspections shall include: (1) An assessment of the integrity of storm water flow diversion and source minimization systems; (2) visual inspections of dismantling areas, vehicle and equipment maintenance areas, vehicle, equipment, and parts cleaning and storage areas, and other potential sources of pollution for evidence of actual or potential pollutant discharges of contaminated storm water.

Inspections shall be conducted in each of the following periods: January through March; April through June; July through September; and October through December.

Reports of the quarterly inspections (or more frequent if appropriate) shall be retained as part of the plan. Based on the results of each inspection the plan must be revised as appropriate within 2 weeks after each inspection. Changes in the measures and controls must be implemented on the site in a timely manner, and never more than 12 weeks after completion of the inspection.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. The pollution prevention plan shall include a schedule for training. Employee training must, at a minimum, address the following areas when applicable to a facility: proper handling (collection, storage, and disposal) of oil, used mineral spirits, anti-freeze, and solvents; spill prevention and response; fueling procedures; good housekeeping practices; and used battery management.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. The permittee must describe procedures for developing and retaining records on the status and effectiveness of plan implementation. The plan must address monitoring, and BMP inspection and maintenance activities. Ineffective BMPs must be reported and the date of their corrective action noted.

(g) Non-storm Water Discharges

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with Part XI.M.2.b.(3)(g)(iii) (Failure to Certify) of this permit.

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion. Permittees must consider measures to maximize stabilization of industrial areas using vegetative cover, gravel, impervious surfaces or other appropriate measures.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide measures that the permittee determines to be reasonable and appropriate and shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see Part XI.M.2.a.(2) (Description of Potential Pollutant Sources) of this permit) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include:

vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, wet detention/retention devices, or other equivalent measures. In addition, the permittee must describe the storm water pollutant source area or activity (e.g., dismantling area, storage area, cleaning operations) to be controlled by each storm water management practice.

The plan must consider management practices, such as berms or drainage ditches on the property line, that may be used to prevent runon from neighboring properties. Berms must be considered for uncovered outdoor storage of oily parts, engine blocks, and above ground liquid storage. The installation of detention ponds must also be considered. The permittee shall consider the installation of a filtering device to receive runoff from industrial areas. The installation of oil/water separators must also be considered.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct comprehensive site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. The storm water pollution prevention plan must describe the scope and content of comprehensive site evaluations that qualified personnel will conduct to (1) confirm the accuracy of the description of potential pollution sources.contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of the permit. The individual or individuals who will conduct the evaluations must be identified in the plan and should be members of the pollution prevention team. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with Part XI.M.2.a.(2) (Description of Potential Pollutant Sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.M.2.a.(3) (Measures and Controls) of this permit shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.M.2.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

3. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

4. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees operating automobile salvage yards must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 4.a.(3) (Sampling Waiver), 4.a.(4) (Representative Discharge), and 4.a.(5) (Alternative Certification). Automobile salvage yards are required to monitor their storm water discharges for the pollutants of concern listed in Table M–1 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table M–1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE M–1.—Monitoring Requirements

Pollutants of concern	Monitoring cut-off concentration (mg/L)
Total Suspended Solids	100
Total Recoverable Aluminum	0.75
Total Recoverable Iron	1.0
Total Recoverable Lead	0.0816

(1) Monitoring Periods. Automobile salvage yards shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water

discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (e.g., drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table M–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in the area of the facility which drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports required under b below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity, that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (b) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and conduct any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b. Reporting. Permittees with automobile salvage yards shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results (or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report Form must be submitted per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.C. of the fact sheet.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), automobile salvage yards with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Quarterly Visual Examination of Storm Water Quality. All automobile salvage yard facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) must be made at least once in each of the following 3-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event

that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (e.g., drought, extended frozen conditions, etc.).

(5) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

5. Retention of Records

The permittee shall retain records of all inspections and monitoring information, including certification reports, noncompliance reports, calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports, and supporting data, requested by the permitting authority for at least 3 years after the date of the inspection or monitoring event.

N. Storm Water Discharges Associated With Industrial Activity From Scrap Recycling and Waste Recycling Facilities

1. Discharges Covered Under This Section

The requirements listed under this section are applicable to storm water discharges from the following activities: facilities that are engaged in the processing, reclaiming and wholesale distribution of scrap and waste materials such as ferrous and nonferrous metals, paper, plastic, cardboard, glass, animal hides (these types of activities are typically identified as SIC code 5093). Facilities that are engaged in reclaiming and recycling liquid wastes such as used oil, antifreeze, mineral spirits, and industrial solvents (also identified as SIC code 5093) are also covered under this section. Separate permit requirements have been established for recycling facilities that only receive source-separated recyclable materials primarily from non-industrial and residential sources (also identified as SIC 5093) (e.g., common consumer products including paper, newspaper, glass, cardboard, plastic containers, aluminum and tin cans). This includes recycling facilities commonly referred to as material recovery facilities (MRF).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges

(1) Except as provided in paragraph XI.N.2.b., all discharges covered by this permit shall be composed entirely of storm water. Non storm water discharges from turnings containment areas are not covered under this permit.

(a) Except as provided in paragraph XI.N.2.b. (below), discharges of material other than storm water to waters of the United States, or through municipal separate storm sewer systems, are not authorized by this permit. The operators of such discharges must obtain coverage under a separate National Pollutant Discharge Elimination System (NPDES) permit (other than this permit) issued for the discharge.

(b) The following non-storm water discharges are authorized by this permit provided the non-storm water component of the discharge is in compliance with paragraph XI.N.3.a.(3) (Measures and Controls for Storm Water Discharges): discharges from fire fighting activities; fire hydrant flushing; potable water sources including waterline flushings; irrigation drainage; lawn watering; routine external building washdown which does not use detergents or other compounds; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled materials have been removed) and where detergents are not used; air conditioning condensate; springs; and uncontaminated ground water.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The following general requirements for the storm water pollution prevention plan are applicable to activities which reclaim and recycle either recyclable nonliquid and liquid waste materials. In addition to the general requirements, Paragraph XI.N.3.a.(3)(a) (below) identifies special requirements for scrap recycling and waste recycling facilities (nonsource-separated facilities) that handle nonliquid wastes. Paragraph XI.N.3.a.(3)(b) (below) identifies special

requirements for waste recycling facilities that handle only liquid wastes. Paragraph XI.N.3.a.(3)(c) identifies special requirements for recycling facilities, including MRFs, that receive only source-separated recyclable materials primarily from non-industrial and residential sources. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources or, during periods of dry weather, result in dry weather flows. Each plan shall include, at a minimum:

(a) Drainage

(i) A site map indicating the outfall locations and the types of discharges contained in the drainage areas of the outfalls, an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies (including wetlands), locations where significant materials are exposed to precipitation including scrap and waste material storage and outdoor scrap and waste processing equipment, locations where major spills or leaks identified in paragraph XI.N.3.a.(2)(c) of this section have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, material storage (including tanks or other vessels used for liquid or waste storage). Scrap recycling facilities that handle turnings that have been previously exposed to cutting fluids will delineate these containment areas as required in paragraph XI.N.3.a.(iii). The site map must also identify monitoring locations.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of a chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Section 311 of the Clean Water Act (CWA) (see 40 CFR 110.10 and 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR 302.4). Such a list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities, outdoor processing activities; significant dust or particulate generating processes and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., Chemical Oxygen Demand (COD), oil and grease, Total Suspended Solids (TSS), zinc, lead, copper, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls for scrap recycling and waste recycling facilities (nonsource-separated, nonliquid recyclable materials), waste recycling facilities (recyclable liquid wastes), and recycling facilities (source-separated materials) are identified in Parts XI.N.3.a.(3)(a), XI.N.3.a.(3)(b), and XI.N.3.a.(3)(c), respectively. At a minimum, the description shall also include a schedule for implementing such controls:

(a) Scrap and Waste Recycling Facilities (nonsource-separated, nonliquid recyclable wastes)—The following special conditions have been established for the pollution prevention plan for those scrap and waste recycling facilities that receive, process and provide wholesale distribution of nonliquid recyclable wastes, (e.g., ferrous and nonferrous metals, plastics, glass, cardboard, and paper). This section of the permit is intended to distinguish waste recycling facilities that receive both nonrecyclable and recyclable materials from those recycling facilities that only accept recyclable materials primarily from non-industrial and residential sources. Under the description of measures and controls in the storm water pollution prevention plan, the plan will address all areas that have a reasonable potential to contribute pollutants to storm water discharges and will be maintained in a clean and orderly manner. At a minimum, the plan will address the following activities and areas within the plan:

(i) Inbound Recyclable and Waste Material Control Program—The plan shall include a recyclable and waste material inspection program to

minimize the likelihood of receiving materials that may be significant pollutant sources to storm water discharges. At a minimum, the plan shall address the following:

(a) Provision of information/education (flyers, brochures and pamphlets) to encourage suppliers of scrap and recyclable waste materials to drain residual fluids, whenever applicable, prior to its arrival at the facility. This includes vehicles and equipment engines, radiators, and transmissions, oil-filled transformers, and individual containers or drums;

(b) Activities which accept scrap and materials that may contain residual fluids, e.g., automotive engines containing used oil, transmission fluids, etc., shall describe procedures to minimize the potential for these fluids from coming in contact with either precipitation or runoff. The description shall also identify measures or procedures to properly store, handle and dispose of these residual fluids;

(c) Procedures pertaining to the acceptance of scrap lead-acid batteries. Additional requirements for the handling, storage and disposal or recycling of batteries shall be in conformance with conditions for a scrap lead-acid battery program, see paragraph XI.N.3.a.(3)(a)(vi) (below);

(d) A description of training requirements for those personnel engaged in the inspection and acceptance of inbound recyclable materials.

(e) Liquid wastes, including used oil, shall be stored in materially compatible and nonleaking containers and disposed or recycled in accordance with all requirements under the Resource Recovery and Conservation Act (RCRA), and other State or local requirements.

(ii) Scrap and Waste Material Stockpiles/Storage (outdoors)—The plan shall address areas where significant materials are exposed to either storm water runoff or precipitation. The plan must describe those measures and controls used to minimize contact of storm water runoff with stockpiled materials, processed materials and nonrecyclable wastes. The plan should include measures to minimize the extent of storm water contamination from these areas. The operator may consider the use of permanent or semipermanent covers, or other similar forms of protection over stockpiled materials where the operator determines that such measures are reasonable and appropriate. The operator may consider the use of sediment traps, vegetated swales and strips, to facilitate settling or filtering out of pollutants. The operator shall consider within the plan the use of the following BMPs (either individually or in combination) or their equivalent to minimize contact with storm water runoff:

(a) Promoting the diversion of runoff away from these areas through such practices as dikes, berms, containment trenches, culverts and/or surface grading;

(b) Media filtration such as catch basin filters and sand filters; and,

(c) Silt fencing; and,

(d) Oil/water separators, sumps and dry adsorbents in stockpile areas that are potential sources of residual fluids, e.g., automotive engine storage areas.

(iii) Stockpiling of Turnings Previously Exposed to Cutting Fluids (outdoors)—The plan shall address all areas where stockpiling of industrial turnings previously exposed to cutting fluids occurs. The plan shall implement those measures necessary to minimize contact of surface runoff with residual cutting fluids. The operator shall consider implementation of either of the following two alternatives or a combination of both or equivalent measures:

(a) Alternative 1: Storage of all turnings previously exposed to cutting fluids under some form of permanent or semi-permanent cover. Discharges of residual fluids from these areas to the storm sewer system in the absence of a storm event is prohibited. Discharges to the storm sewer system as a consequence of a storm event is permitted provided the discharge is first directed through an oil/water separator or its equivalent. Procedures to collect, handle, and dispose or recycle residual fluids that may be present shall be identified in the plan, or,

(b) Alternative 2: Establish dedicated containment areas for all turnings that have been exposed to cutting fluids where runoff from these areas is directed to a storm sewer system, providing the following:

(i) containment areas constructed of either concrete, asphalt or other equivalent type of impermeable material;

(ii) a perimeter around containment areas to prevent runoff from moving across these areas. This would include the use of shallow berms, curbing, or constructing an elevated pad or other equivalent measure;

(iii) a suitable drainage collection system to collect all runoff generated from within containment areas. At a minimum, the drainage system shall include a plate-type oil/water separator or its equivalent. The oil/water separator or its equivalent shall be installed according to the manufacturer's recommended specifications, whenever available, specifications will be kept with the plan.

(iv) a schedule to maintain the oil/water separator (or its equivalent) to prevent the accumulation of appreciable amounts of fluids. In the absence of a storm event, no discharge from containment areas to the storm sewer system are prohibited unless covered by a separate NPDES permit;

(v) identify procedures for the proper disposal or recycling of collected residual fluids.

(iv) Scrap and Waste Material Stockpiles/Storage (covered or indoor storage)—The plan shall address measures and controls to minimize residual liquids and accumulated particulate matter, originating from scrap and recyclable waste materials stored indoors or under cover, from coming in contact with surface runoff. The operator shall consider including in the plan the following or equivalent measures:

(a) Good housekeeping measures, including the use of dry absorbent or wet vacuum clean up methods, to collect, handle, store and dispose or recycle residual liquids originating from recyclable containers, e.g., beverage containers, paint cans, household cleaning products containers, etc.;

(b) Prohibiting the practice of allowing washwater from tipping floors or other processing areas from discharging to any portion of a storm sewer system;

(c) Disconnecting or sealing off all existing floor drains connected to any portion of the storm sewer system.

(v) Scrap and Recyclable Waste Processing Areas—The plan shall address areas where scrap and waste processing equipment are sited. This includes measures and controls to minimize surface runoff from coming in contact with scrap processing equipment. In the case of processing equipment that generate visible amounts of particulate residue, e.g., shredding facilities, the plan shall describe good housekeeping and preventive maintenance measures to minimize contact of runoff with residual fluids and accumulated particulate matter. At a minimum, the operator shall consider including in the plan the following or other equivalent measures:

(a) A schedule of periodic inspections of equipment for leaks, spills, malfunctioning, worn or corroded parts or equipment;

(b) Preventive maintenance program to repair and/or maintain processing equipment;

(c) Measures to minimize shredder fluff from coming in contact with surface runoff;

(d) Use of dry-absorbents or other cleanup practices to collect and to dispose or recycle spilled or leaking fluids;

(e) Installation of low-level alarms or other equivalent protection devices on unattended hydraulic reservoirs over 150 gallons in capacity. Alternatively, provide secondary containment with sufficient volume to contain the entire volume of the reservoir.

The operator shall consider employing the following additional BMPs or equivalent measures: diversion structures such as dikes, berms, culverts, containment trenches, elevated concrete pads, grading to minimize contact of storm water runoff with outdoor processing equipment; oil/water separators, sumps or equivalent, in processing areas that are potential sources of residual fluids and grease; permanent or semipermanent covers, or other similar measures; retention and detention basins or ponds, sediment traps or vegetated swales and strips, to facilitate settling or filtering out of pollutants in runoff from processing areas; or media filtration such as catch basin filters and sand filters.

(vi) Scrap Lead-Acid Battery Program—The plan shall address measures and controls for the proper handling, storage and disposition of scrap lead-acid batteries (note. this permit does apply to the reclaiming of scrap lead-acid batteries, i.e., breaking up battery casings to recover lead). The operator shall consider including in the plan the following or equivalent measures:

(a) Segregating all scrap lead-acid batteries from other scrap materials;

(b) A description of procedures and/or measures for the handling, storage and proper disposal of cracked or broken batteries;

(c) A description of measures to collect and dispose of leaking battery fluid (lead-acid);

(d) A description of measures to minimize and, whenever possible, eliminate exposure of scrap lead-acid batteries to precipitation or runoff; and

(e) A description of employee training for the management of scrap batteries.

(vii) Erosion and Sediment Control—The plan shall identify all areas associated with industrial activity that have a high potential for soil erosion and suspended solids loadings, i.e., areas that tend to accumulate significant particulate matter. Appropriate source control, stabilization measures, nonstructural, structural controls or an equivalent shall be provided in these areas. The plan shall also contain a narrative discussion of the reason(s) for selected erosion and sediment controls. At a minimum, the operator shall consider in the plan, either individually or in combination, the following erosion and sediment control measures:

(a) Filtering or diversion practices, such as filter fabric fence, sediment filter boom, earthen or gravel berms, curbing or other equivalent measure,

(b) Catch basin filters, filter fabric fence, or equivalent measure, place in or around inlets or catch basins that receive runoff from scrap and waste storage areas, and processing equipment; or

(c) Sediment traps, vegetative buffer strips, or equivalent, to remove sediment prior to discharge through an inlet or catch basin.

(viii) Structural Controls for Sediment and Erosion Control—In instances where significant erosion and suspended solids loadings continue after installation of one or more of the BMPs identified in paragraph XI.N.3.a.(3)(a)(vii) (above), the operator shall consider providing in the plan for a detention or retention basin or other equivalent structural control. All structural controls shall be designed using good engineering practice. All structural controls and outlets that are likely to receive discharges containing oil and grease must include appropriate measures to minimize the discharge of oil and grease through the outlet. This may include the use of an absorbent boom or other equivalent measures.

Where space limitations (e.g., obstructions caused by permanent structures such as buildings and permanently-sited processing equipment and limitations caused by a restrictive property boundary) prevent the siting of a structural control, i.e., retention basin, such a determination will be noted in the plan. The operator will identify in the plan what existing practices shall be modified or additional measures shall be undertaken to minimize erosion and suspended sediment loadings in lieu of a structural BMP.

(ix) Spill Prevention and Response Procedures—To prevent or minimize storm water contamination at loading and unloading areas, and from equipment or container failures, the operator shall consider including in the plan the following practices:

(a) Description of spill prevention and response measures to address areas that are potential sources of leaks or spills of fluids;

(b) Leaks and spills should be contained and cleaned up as soon as possible. If malfunctioning equipment is responsible for the spill or leak, repairs should also be conducted as soon as possible;

(c) Cleanup procedures should be identified in the plan, including the use of dry absorbent materials or other cleanup methods. Where dry absorbent cleanup methods are used, an adequate supply of dry absorbent material should be maintained onsite. Used absorbent material should be disposed of properly;

(d) Drums containing liquids, including oil and lubricants, should be stored indoors; or in a bermed area; or in overpack containers or spill pallets; or in similar containment devices;

(e) Overfill prevention devices should be installed on all fuel pumps or tanks;

(f) Drip pans or equivalent measures should be placed under any leaking piece of stationary equipment until the leak is repaired. The drip pans should be inspected for leaks and checked for potential overflow and emptied regularly to prevent overflow and all liquids will be disposed of in accordance with all requirements under RCRA.

(g) An alarm and/or pump shut off system should be installed and maintained on all outside equipment with hydraulic reservoirs exceeding 150 gallons (only those reservoirs not directly visible by the operator of the equipment) in order to prevent draining the tank contents in the event of a line break. Alternatively, the equipment may have a secondary containment system capable of containing the contents of the hydraulic reservoir plus adequate freeboard for precipitation. Leaking hydraulic fluids should be disposed of in accordance with all requirements under RCRA.

(x) Quarterly Inspection Program—A quarterly inspection shall include all designated areas of the facility and equipment identified in the plan. The inspection shall include a means of tracking and conducting follow up actions based on the results of the inspection. The inspections shall be conducted by members of the Storm Water Pollution Prevention team. At a minimum, quarterly inspections shall include the following areas: all outdoor scrap processing areas; all material unloading and loading areas (including rail sidings) that are exposed to either precipitation or storm water runoff; areas where structural BMPs have been installed; all erosion and sediment BMPs; outdoor vehicle and equipment maintenance areas; vehicle and equipment fueling areas; and all areas where waste is generated, received, stored, treated, or disposed and which are exposed to either precipitation or storm water runoff.

The objective of the inspection shall be identify any corroded or leaking containers, corroded or leaking pipes, leaking or improperly closed valves and valve fittings, leaking pumps and/or hose connections, and deterioration in diversionary or containment structures that are exposed to precipitation or storm water runoff.

Spills or leaks identified during the visual inspection shall be immediately addressed using the procedures identified in Part XI.N.3.a.(3)(a)(ix) (Spill Prevention and Response Procedures). Structural BMPs shall be visually inspected for signs of washout, breakage, deterioration, damage, or overflowing and breaks shall be repaired or replaced as expeditiously as possible.

(xi) Employee Training—At a minimum, storm water control training appropriate to their job function shall be provided for truck drivers, scale operators, supervisors, buyers and other operating personnel. The plan shall include a proposed schedule for the training. The employee training program shall address at a minimum: BMPs and other requirements of the plan; proper scrap inspection, handling and storage procedures; procedures to follow in the event of a spill, leak, or break in any structural BMP. A training and education program shall be developed for employees and for suppliers for implementing appropriate activities identified in the storm water pollution prevention plan.

(xii) Supplier Notification—The plan shall include a supplier notification program that will be applicable to major suppliers and shall include: description of scrap materials that will not be accepted at the facility or that are accepted only under certain conditions.

(b) *Waste Recycling Facilities (liquid recyclable wastes)*—The following special conditions have been established for the pollution prevention plan for those facilities that reclaim and recycle liquid wastes (e.g., used oil, antifreeze, mineral spirits, and industrial solvents). For these facilities, the storm water pollution prevention plan shall address all areas that have a reasonable potential to contribute pollutants to storm water discharges and will be maintained in a clean and orderly manner. At a minimum, the plan shall address the following activities and areas within the plan:

(i) Waste Material Storage (indoors)—The plan shall address measures and controls to minimize/eliminate residual liquids from waste materials stored indoors from coming in contact with surface runoff. The plan may refer to applicable portions of other existing plans such as SPCC plans required under 40 CFR Part 112. At a minimum, the operator shall consider including in the plan the following:

(a) Procedures for material handling (including labeling and marking);

(b) A sufficient supply of dry-absorbent materials or a wet vacuum system to collect spilled or leaked materials;

(c) An appropriate containment structure, such as trenches, curbing, gutters or other equivalent measures; and

(d) A drainage system to handle discharges from diked or bermed areas. The drainage system should include appurtenances, (e.g., pumps or ejectors, manually operated valves). Drainage should be discharged to an appropriate treatment facility, sanitary sewer system, or otherwise disposed of properly. Discharges from these areas should be covered by a separate NPDES permit or industrial user permit under the pretreatment program.

(ii) Waste Material Storage (outdoors)—The plan shall address areas where waste materials are exposed to either storm water runoff or precipitation. The plan shall include measures to provide appropriate containment, drainage control and other appropriate diversionary structures. The plan may refer to applicable portions of other existing plans such as SPCC plans required under 40 CFR Part 112. At a minimum, the plan shall describe those measures and controls used to minimize contact of storm water runoff with stored materials. The operator shall consider including in the plan the following preventative measures, or an equivalent:

(a) An appropriate containment structure such as dikes, berms, curbing or pits, or other equivalent measures. The containment should be sufficient to store the volume of the largest single tank and should include sufficient freeboard for precipitation;

(b) A sufficient supply of dry-absorbent materials or a wet vacuum system, or other equivalent measure, to collect liquids from minor spills and leaks in contained areas; and

(c) Discharges of precipitation from containment areas containing used oil shall be in accordance with applicable sections of 40 CFR Part 112.

(iii) Truck and Rail Car Waste Transfer Areas—The plan shall describe measures and controls for truck and rail car loading and unloading areas. This includes appropriate containment and diversionary structures to minimize contact with precipitation or storm water runoff. The plan shall also address measures to clean up minor spills and/or leaks originating from the transfer of liquid wastes. This may include the use of dry-clean up methods, roof coverings, runoff controls, or other equivalent measures.

(iv) Erosion and Sediment Control—The plan shall identify all areas associated with industrial activity that have a high potential for soil erosion. Appropriate stabilization measures, nonstructural and structural controls shall be provided in these areas. The plan shall contain a narrative consideration of the appropriateness for selected erosion and sediment controls. Where applicable, the facility shall consider the use of the following types of preventive measures: sediment traps; vegetative buffer strips; filter fabric fence; sediment filtering boom; gravel outlet protection; or other equivalent measures that effectively trap or remove sediment prior to discharge through an inlet or catch basin.

(v) Spill Prevention and Response Procedures—The plan shall address measures and procedures to address potential spill scenarios that could occur at the facility. This includes all applicable handling and storage procedures, containment and/or diversion equipment, and clean-up procedures. The plan shall specifically address all outdoor and indoor storage areas, waste transfer areas, material receiving areas (loading and unloading), and waste disposal areas.

(vi) Quarterly Inspections—Quarterly visual inspections shall be conducted by a member, or members, of the storm water pollution prevention team. The quarterly inspection shall include all designated areas of the facility and equipment identified in the plan. The inspection shall include a means of tracking and conducting follow up actions based on the results of the inspection. At a minimum, the inspections shall include the following areas: material storage areas; material unloading and loading areas (including rail sidings) that are exposed to either precipitation or storm water runoff; areas where structural BMPs have been installed; all erosion and sediment BMPs; outdoor vehicle and equipment maintenance areas (if applicable); vehicle and equipment fueling areas (if applicable); and all areas where waste is generated, received, stored, treated, or disposed and which are exposed to either precipitation or storm water runoff.

The inspection shall identify the presence of any corroded or leaking containers, corroded or leaking pipes, leaking or improperly closed valves and valve fittings, leaking pumps and/or hose connections, and deterioration in diversionary or containment structures

that are exposed to precipitation or storm water runoff. Spills or leaks shall be immediately addressed according to the facility's spill prevention and response procedures.

(c) Recycling Facilities (source separated materials)—The following special conditions have been established for the pollution prevention plan for recycling facilities, including MRFs, that receive only source-separated recyclable materials primarily from non-industrial and residential sources.

(i) Inbound Recyclable Material Control Program. The plan shall include a recyclable material inspection program to minimize the likelihood of receiving non-recyclable materials (e.g., hazardous materials) that may be a significant source of pollutants in surface runoff. At a minimum, the operator shall consider addressing in the plan the following:

(a) A description of information and education measures to educate the appropriate suppliers of recyclable materials on the types of recyclable materials that are acceptable and those that are not acceptable, e.g., household hazardous wastes;

(b) A description of training requirements for drivers responsible for pickup of recyclable materials;

(c) Clearly mark public drop-off containers as to what materials can be accepted;

(d) Rejecting non-recyclable wastes or household hazardous wastes at the source; and

(e) A description of procedures for the handling and disposal of non-recyclable materials.

(ii) Outdoor Storage. The plan shall include BMPs to minimize or reduce the exposure of recyclable materials to surface runoff and precipitation. The plan, at a minimum, shall include good housekeeping measures to prevent the accumulation of visible quantities of residual particulate matter and fluids, particularly in high traffic areas. The plan shall consider tarpaulins or their equivalent to be used to cover exposed bales of recyclable waste paper. The operator shall consider within the plan the use of the following types of BMPs (individually or in combination) or their equivalent, where practicable:

(a) Provide totally-enclosed drop-off containers for public.

(b) Provide a sump and sump pump with each containment pit. Discharge collected fluids to sanitary sewer system. Prevent discharging to the storm sewer system;

(c) Provide dikes and curbs for secondary containment, i.e., around bales of recyclable waste paper;

(d) Divert surface runoff away from outside material storage areas; and/or

(e) Provide covers over containment bins, dumpsters, roll-off boxes; and,

(f) Store the equivalent one day's volume of recyclable materials indoors.

(iii) Indoor Storage and Material Processing. The plan shall address BMPs to minimize the release of pollutants from indoor storage and processing areas to the storm sewer system. The plan shall establish specific measures to ensure that all floor drains do not discharge to the storm sewer system. The following BMPs shall be considered for inclusion in the plan:

(a) Schedule routine good housekeeping measures for all storage and processing areas;

(b) Prohibit a practice of allowing tipping floor washwaters from draining to any portion of the storm sewer system;

(c) Provide employee training on pollution prevention practices.

(iv) Vehicle and Equipment Maintenance. The plan shall also provide for BMPs in those areas where vehicle and equipment maintenance is occurring outdoors. At a minimum, the following BMPs or equivalent measures shall be considered for inclusion in the plan:

(a) Prohibit vehicle and equipment washwater from discharging to the storm sewer system;

(b) Minimize or eliminate outdoor maintenance areas, wherever possible;

(c) Establish spill prevention and clean-up procedures in fueling areas;

(d) Provide employee training on avoiding topping off fuel tanks;

(e) Divert runoff from fueling areas;

(f) Store lubricants and hydraulic fluids indoors;

(g) Provide employee training on proper, handling, storage of hydraulic fluids and lubricants.

(d) Recordkeeping and Internal Reporting Procedures—The following record and internal reporting procedures are applicable to all discharges seeking coverage under this permit. The plan shall include a description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. The plan must address spills, monitoring, and BMP inspection and maintenance activities. BMPs which are ineffective must be reported and the date of their corrective action noted. Employees must report incidents of leaking fluids to facility management and these reports must be incorporated into the plan.

(e) Non-storm Water Discharges

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.N.3.a.(3)(d)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate

tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.N.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.N.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.N.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) The storm water pollution prevention plan must describe the scope and content of comprehensive site evaluations that qualified personnel shall conduct to (1) confirm the accuracy of the description of potential pollution sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of the permit. The individual or individuals who shall conduct the evaluation must be identified in the plan and should be members of the pollution prevention team.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with scrap recycling and waste recycling facilities must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Scrap recycling and waste recycling facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table N-1 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table N-1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE N–1.—INDUSTRY MONITORING REQUIREMENTS

Pollutants of concern[1]	Cut-off concentration (mg/L
Chemical Oxygen Demand (COD)	120
Total Suspended Solids (TSS)	100
Total Recoverable Aluminum	0.75
Total Recoverable Copper	0.0636
Total Recoverable Iron	1.0
Total Recoverable Lead	0.0816
Total Recoverable Zinc	0.065

[1] Several congeners of PCBs (PCB–1016, –1221, –1242, –1248, –1260) were above established benchmarks, however, EPA believes that these constituents will readily bound up with sediment and particulate matter. Therefore, EPA believes that BMPs will effectively address sources of PCBs and that monitoring for TSS will serve as an adequate indicator of the control of PCBs.

(1) Monitoring Periods. Scrap and waste material processing and recycling facilities shall monitor samples collected during the sampling periods of: January to March, April to June, July to September, and October to December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or non-process water, then where practicable, permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due

to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (e.g., drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table N-1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in the area of the facility which drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of the monitoring reports required under paragraph *b* below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity, that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph b. below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b. Reporting. Permittees with scrap and waste material processing and recycling facilities shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results (or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), scrap and waste material processing and recycling facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a representative storm water discharge associated with industrial activity exposed to storm water. The examination must be made at least once each quarter during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event. Examinations must be conducted at least once in each of the following periods: January through March; April through June; July through September; and October through December.

(1) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm

event. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain the documentation on-site with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

O. Storm Water Discharges Associated With Industrial Activity From Steam Electric Power Generating Facilities, Including Coal Handling Areas

1. Discharges Covered Under This Section

The requirements listed under this section shall apply to storm water discharges from steam electric power generating facilities, including coal handling areas. Non-storm water discharges subject to effluent limitations guidelines are not covered by this permit. Storm water discharges from coal pile runoff subject to numeric limitations are eligible for coverage under this permit, but are subject to the limitations established by 40 CFR 423.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

a. Limitations on Coverage. Storm water discharges from ancillary facilities such as fleet centers, gas turbine stations, and substations that are not contiguous to a steam electric power generating facility are not covered by this permit. Heat capture co-generation facilities are not covered by this permit; however, dual fuel co-generation facilities are included.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges. Except as provided under Part III.A.2 of this permit, non-storm water discharges are not authorized by this permit. The operators of such discharges must obtain coverage under a separate National Pollutant Discharge Elimination System (NPDES) permit if discharged to waters of the United States or through a municipal separate storm sewer system. Storm water discharges associated with industrial activities that are mixed with sources of non-storm water are not authorized by this permit, except if mixed with non-storm water discharges that are in compliance with a different NPDES permit or identified by and in compliance with Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit.

Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map which clearly outlines the locations of the following, as they apply to the facility: The outfall locations and the types of discharges contained in the drainage areas of the outfalls, and an outline of the drainage area of each storm water outfall that is within the facility boundaries (and indicating the direction of storm water flow); processing areas and buildings; treatment ponds; locations where significant materials are exposed to precipitation; storage tanks; scrap yards, and general refuse areas; fuel storage and distribution areas; vehicle and equipment maintenance and storage areas; loading/unloading areas; locations used for treatment,storage or disposal of wastes; location of short and long term storage of general materials (including but not limited to: supplies, construction materials, plant

equipment, oils, fuels, used and unused solvents, cleaning materials, paint, water treatment chemicals, fertilizers, and pesticides); landfills; location of construction sites; locations of stock pile areas (such as coal piles and limestone piles); locations where major spills or leaks identified under Part XI.O.3.a.(2)(c) (Spills and Leaks) of this permit have occurred; surface water bodies; and existing structural control measures to reduce pollutants in storm water runoff (such as bermed areas, grassy swales, etc.).

(ii) For each storm water outfall identify the types of pollutants which are likely to be present in the storm water discharges. Factors to consider include the toxicity of a chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., total suspended solids, copper, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. The following areas must be specifically addressed:

(i) Fugitive Dust Emissions—The plan must describe measures that prevent or minimize fugitive dust emissions from coal handling areas. The permittee shall consider establishing procedures to minimize offsite tracking of coal dust. To prevent offsite tracking the facility may consider specially designed tires, or washing vehicles in a designated area before they leave the site, and controlling the wash water.

(ii) Delivery Vehicles—The plan must describe measures that prevent or minimize contamination of storm water runoff from delivery vehicles arriving on the plant site. At a minimum the permittee should consider the following:

(a) Develop procedures for the inspection of delivery vehicles arriving on the plant site, and ensure overall integrity of the body or container; and

(b) Develop procedures to deal with leakage or spillage from vehicles or containers, and ensure that proper protective measures are available for personnel and environment.

(iii) Fuel Oil Unloading Areas—The plan must describe measures that prevent or minimize contamination of storm water runoff from fuel oil unloading areas. At a minimum the facility operator must consider using the following measures, or an equivalent:

(a) Use containment curbs in unloading areas;

(b) During deliveries station personnel familiar with spill prevention and response procedures must be present to ensure that any leaks or spills are immediately contained and cleaned up; and

(c) Use spill and overflow protection (drip pans, drip diapers, and/or other containment devices shall be placed beneath fuel oil connectors to contain any spillage that may occur during deliveries or due to leaks at such connectors).

(iv) Chemical Loading/Unloading Areas—The plan must describe measures that prevent or minimize the contamination of storm water runoff from chemical loading/unloading areas. Where practicable, chemical loading/unloading areas should be covered, and chemicals should be stored indoors.

At a minimum the permittee must consider using the following measures or an equivalent:

(a) Use containment curbs at chemical loading/unloading areas to contain spills; and

(b) During deliveries station personnel familiar with spill prevention and response procedures must be present to ensure that any leaks or spills are immediately contained and cleaned up.

(v) Miscellaneous Loading/Unloading Areas—The plan must describe measures that prevent or minimizes the contamination of storm water runoff from loading and unloading areas. The facility may consider covering the loading area, minimizing storm water runon to the loading area by grading, berming, or curbing the area around the loading area to direct storm water away from the area, or locate the loading/unloading equipment and vehicles so that leaks can be contained in existing containment and flow diversion systems.

(vi) Liquid Storage Tanks—The plan must describe measures that prevent or minimize contamination of storm water runoff from above ground liquid storage tanks. At a minimum the facility operator must consider employing the following measures or an equivalent:

(a) Use protective guards around tanks;

(b) Use containment curbs;

(c) Use spill and overflow protection (drip pans, drip diapers, and/or other containment devices shall be placed beneath chemical connectors to contain any spillage that may occur during deliveries or due to leaks at such connectors); and

(d) Use dry cleanup methods.

(vii) Large Bulk Fuel Storage Tanks—The plan must describe measures that prevent or minimize contamination of storm water runoff from liquid storage tanks. At a minimum the facility operator must consider employing the following measures, or an equivalent:

(a) Comply with applicable State and Federal laws, including Spill Prevention Control and Countermeasures (SPCC); and

(b) Containment berms.

(viii) The plan must describe measures to reduce the potential for an oil spill, or a chemical spill, or reference the appropriate section of their SPCC plan. At a minimum the structural integrity of all above ground tanks, pipelines, pumps and other related equipment shall be visually inspected on a weekly basis. All repairs deemed necessary based on the findings of the inspections shall be completed immediately to reduce the incidence of spills and leaks occurring from such faulty equipment.

(ix) Oil Bearing Equipment in Switchyards—The plan must describe measures to reduce the potential for storm water contamination from oil bearing equipment in switchyard areas. The facility operator may consider level grades and gravel surfaces to retard flows and limit the spread of spills; collection of storm water runoff in perimeter ditches.

(x) Residue Hauling Vehicles—All residue hauling vehicles shall be inspected for proper covering over the load, adequate gate sealing and overall integrity of the body or container. Vehicles without load coverings or adequate gate sealing, or with leaking containers or beds must be repaired as soon as practicable.

(xi) Ash Loading Areas—Plant procedures shall be established to reduce and/or control the tracking of ash or residue from ash loading areas including, where practicable, requirements to clear the ash building floor and immediately adjacent roadways of spillage, debris and excess water before each loaded vehicle departs.

(xii) Areas Adjacent to Disposal Ponds or Landfills—The plan must describe measures that prevent or minimize contamination of storm water runoff from areas adjacent to disposal ponds or landfills. The facility must develop procedures to:

(a) Reduce ash residue which may be tracked on to access roads traveled by residue trucks or residue handling vehicles; and

(b) Reduce ash residue on exit roads leading into and out of residue handling areas.

(xiii) Landfills, Scrapyards, Surface Impoundments, Open Dumps, General Refuse Sites—The plan must address landfills, scrapyards, surface impoundments, open dumps and general refuse sites. The permittee is referred to Parts XI.L. and XI.N of the permit for applicable Best Management Practices (BMPs).

(xiv) Maintenance Activities—For vehicle maintenance activities performed on the plant site, the permittee shall use the applicable BMPs outlined in Part XI.P. of the permit (Storm Water Discharges Associated With Industrial Activity From Motor Freight Transportation Facilities, Passenger Transportation Facilities, Rail Transportation Facilities, and United States Postal Service Transportation Facilities).

(xv) Material Storage Areas—The plan must describe measures that prevent or minimize contamination of storm water from material storage areas (including areas used for temporary storage of miscellaneous products, and construction materials stored in lay down areas). The facility operator may consider flat yard grades, runoff collection in graded swales or ditches, erosion protection measures at steep outfall sites (e.g., concrete chutes, riprap, stilling basins), covering lay down areas, storing the materials indoors, covering the material with a temporary covering made of polyethylene, polyurethane, polypropylene, or hypalon. Storm water runon may be minimized by constructing an enclosure or building a berm around the area.

(b) Preventive Maintenance—A preventive maintenance program shall be implemented and shall include timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points, shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—In addition to or as part of the comprehensive site evaluation required under Part XI.O.3.a.(4) of this section, qualified facility personnel shall be identified to inspect the following areas on a monthly basis: coal handling areas, loading/unloading areas, switchyards, fueling areas, bulk storage areas, ash handling areas, areas adjacent to disposal ponds and landfills, maintenance areas, liquid storage tanks, and long term and short term material storage areas. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained onsite. Such records are subject to review by the U.S. Environmental Protection Agency, and State, and local agencies with jurisdiction, and must be retained onsite a minimum of 3 years after the date of the inspection.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as goals of the pollution prevention plan, spill prevention and control, proper handling procedures for hazardous wastes, good housekeeping and material management practices, and storm water sampling techniques. The pollution prevention plan shall identify periodic dates for such training, but in all cases training must be held at least annually.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the

evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.O.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and, why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see Part XI.O.3.a.(2)) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, wet detention/retention devices, or other equivalent measures.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual evaluation of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with Part XI.O.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with Part XI.O.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.O.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

Coal pile runoff is subject to the effluent guidelines described in Part V.B. of this permit. However, steam electric generating facilities must comply with the requirement of Part V.B. immediately upon permit issuance. Steam electric generating facilities are not permitted to take 3 years to meet this requirement.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with steam electric power generating facilities must monitor their storm water discharges associate with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3). (sampling waiver), 5.a.(4). (representative discharge), and 5.a.(5).(alternative certification), steam electric power generating facilities are required to monitor their storm water discharges for the pollutant of concern listed in Table O–1 below. Facilities must report in accordance with 5.b.(reporting). In addition to the parameter listed in Table O–1 below, the permittee shall provide the date and duration (in hours) of the storm event(s)

sampled; rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled;

TABLE O–1.—MONITORING REQUIREMENTS FOR STEAM ELECTRIC POWER GENERATING FACILITIES

Pollutant of concern	Cut-Off concentration (mg/L²)
Total Recoverable Iron	1.0

(1) Monitoring Periods. Steam electric power generating facilities shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table O–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility which drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has 2 or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40 percent), medium (40 to 65 percent) or high (above 65 percent)) shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph b below, under penalty of law, signed in accordance with Part VII.G. (signatory requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*b*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b. Reporting. Permittees with steam electric power generating facilities shall submit monitoring results, or a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility which drains to the outfall for which sampling was waived, obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results, or a certification that there has not been a significant change in

industrial activity or the pollution prevention measures in area of the facility which drains to the outfall for which sampling was waived, obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in VI.G. of the fact sheet to this permit.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above) steam electric power generating facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Compliance Monitoring Requirements. Permittees with point sources of coal pile runoff associated with steam electric power generation must monitor these storm water discharges for the presence of TSS and for pH at least annually (one time per year). Facilities must report in accordance with 5.c.(2) (reporting). In addition to the parameters listed above, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

(1) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

(2) Reporting. Permittees with asphalt paving or roofing emulsion production facilities shall submit monitoring results obtained during the reporting period beginning [insert date of permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the last day of the following [insert month after permit issuance date]. Signed copies of Discharge Monitoring Reports shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office indicated in Part VI.B. of this permit. For each outfall one Discharge monitoring form shall be submitted per storm event sampled.

(3) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph (2) (above), permittees that discharge through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph (3) (above).

d. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated period [described in paragraph (1) below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable the same individual should carry out the collection and examination of discharges for entire permit term.

(3) Visual examination reports must be maintained on-site in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution, and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40 percent), medium (40 to 65 percent) or high (above 65 percent)) shall be provided in the plan.

(5) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(6) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility

remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

P. Storm Water Discharges Associated With Industrial Activity From Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and United States Postal Service Transportation Facilities

1. Discharges Covered Under This Section

Storm water discharges from ground transportation facilities and rail transportation facilities (generally identified by Standard Industrial Classification (SIC) codes 40, 41, 42, 43, and 5171), that have vehicle and equipment maintenance shops (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication) and/or equipment cleaning operations are eligible for coverage under this section.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Storm Water Pollution Prevention Plan Requirements

a. Deadlines for Plan Preparation and Compliance. There are no additional deadlines for plan preparation and compliance, other than those stated in Part IV.A.

b. Contents of the Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team who are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage—A site map indicating the location of each point of discharge of storm water associated with industrial activity, an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries (with a prediction of the direction of flow), each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.P.3.b.(2)(c) (Spills and Leaks) of this permit have occurred, and the locations of the following activities: fueling stations, vehicle and equipment maintenance and/or cleaning areas, storage areas for vehicles and equipment with actual or potential fluid leaks loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas, storage areas, and all monitoring locations. The site map must also indicate the types of discharges contained in the drainage areas of the outfalls (e.g., storm water and air conditioner condensate). In order to increase the readability of the map, the inventory of the types of discharges contained in each outfall may be kept as an attachment to the site map.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; dirt or gravel parking areas for storage of vehicles to be maintained; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities associated with vehicle and equipment maintenance and equipment cleaning: fueling stations; maintenance shops; equipment or vehicle cleaning areas; paved dirt or gravel parking areas for vehicles to be maintained; loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., oil and grease, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—All areas that may contribute pollutants to storm

water discharges shall be maintained in a clean, orderly manner. The following areas must be specifically addressed:

(i) Vehicle and Equipment Storage Areas—The storage of vehicles and equipment awaiting maintenance with actual or potential fluid leaks must be confined to designated areas (delineated on the site map). The plan must describe measures that prevent or minimize contamination of the storm water runoff from these areas. The facility shall consider the use of drip pans under vehicles and equipment, indoor storage of the vehicles and equipment, installation of berming and diking of this area, use of absorbents, roofing or covering storage areas, cleaning pavement surface to remove oil and grease, or other equivalent methods.

(ii) Fueling Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from fueling areas. The facility shall consider covering the fueling area, using spill and overflow protection and cleanup equipment, minimizing runon/runoff of storm water to the fueling area, using dry cleanup methods, collecting the storm water runoff and providing treatment or recycling, or other equivalent measures.

(iii) Material Storage Areas—Storage units of all materials (e.g., used oil, used oil filters, spent solvents, paint wastes, radiator fluids, transmission fluids, hydraulic fluids) must be maintained in good condition, so as to prevent contamination of storm water, and plainly labeled (e.g., "used oil," "spent solvents," etc.). The plan must describe measures that prevent or minimize contamination of the storm water runoff from such storage areas. The facility shall consider indoor storage of the materials, installation of berming and diking of the area, minimizing runon/runoff of storm water to the areas, using dry cleanup methods, collecting the storm water runoff and providing treatment, or other equivalent methods.

(iv) Vehicle and Equipment Cleaning Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for vehicle and equipment cleaning. The facility shall consider performing all cleaning operations indoors, covering the cleaning operation, ensuring that all washwaters drain to the intended collection system (i.e., not the storm water drainage system unless NPDES permitted), collecting the storm water runoff from the cleaning area and providing treatment or recycling, or other equivalent measures. The discharge of vehicle and equipment wash waters, including tank cleaning operations, are not authorized by this permit and must be covered under a separate NPDES permit or discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements.

(v) Vehicle and Equipment Maintenance Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for vehicle and equipment maintenance. The facility shall consider performing all maintenance activities indoors, using drip pans, maintaining an organized inventory of materials used in the shop, draining all parts of fluids prior to disposal, prohibiting wet clean up practices where the practices would result in the discharge of pollutants to storm water drainage systems, using dry cleanup methods, collecting the storm water runoff from the maintenance area and providing treatment or recycling, minimizing runon/runoff of storm water areas or other equivalent measures.

(vi) Locomotive Sanding (loading sand for traction) Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from areas used for locomotive sanding. The facility shall consider covering sanding areas, minimizing storm water runon/runoff, appropriate sediment removal practices to minimize the offsite transport of sanding material by storm water, or other equivalent measures.

(b) Preventive Maintenance—A preventive maintenance program shall include timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins, drip pans, vehicle-mounted drip containment devices) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills could contribute pollutants to storm water discharges, and their accompanying drainage points, shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures and equipment for cleaning up spills shall be identified in the plan and made available to the appropriate personnel.

(d) Inspections—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility on a quarterly basis. The following areas shall be included in all inspections: storage area for vehicles and equipment awaiting maintenance, fueling areas, vehicle and equipment maintenance areas (both indoors and outdoors), material storage areas, vehicle and equipment cleaning areas, and loading and unloading areas. Follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained. The use of a checklist should be considered by the facility.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify how often training will take place; at a minimum, training must be held annually (once per calendar year). Employee training must, at a minimum, address the following areas when applicable to a facility: summary of the facility's pollution prevention plan requirements; used oil management; spent solvent management; spill prevention, response and control; fueling procedures; general good housekeeping practices; proper painting procedures; and used battery management.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage

points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit. Such certification may not be practical if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not practical, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with Part XI.P.3.b.(3)(iv) (Failure to Certify) of this permit.

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2. (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) A copy of the NPDES permit issued for vehicle and equipment washwaters or, if an NPDES permit has not yet been issued, a copy of the pending application must be attached to or referenced in the plan. For facilities that discharge vehicle and equipment washwaters to the sanitary sewer system, the operator of the sanitary system and associated treatment plant must be notified. In such cases, a copy of the notification letter must be attached to the plan. If an industrial user permit is issued under a pretreatment program, a copy of that permit must be attached in the plan. In all cases, any permit conditions or pretreatment requirements must be considered in the plan. If the washwaters are handled in another manner (e.g., hauled offsite), the disposal method must be described and all pertinent documentation (e.g., frequency, volume, destination, etc.) must be attached to the plan.

(iv) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide for the implementation and maintenance of measures that the permittee determines to be reasonable and appropriate. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see XI.P.3.b.(2) (description of potential pollutant sources) of this permit) shall be considered when determining reasonable and appropriate measures. Appropriate measures or other equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct comprehensive site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with Part XI.P.3.b.(2) (Description of Potential Pollutant Sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.P.3.b.(3) (Measures and Controls) of this permit shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.P.3.b.(3)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

3. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

4. Monitoring and Reporting Requirements

a. Monitoring Requirements.

(1) Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges

exempted under paragraph (d) below. The examination(s) must be made at least once in each designated period [described in (a), below] during facility operation in the daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(a) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(b) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual will carry out the collection and examination of discharges for the life of the permit.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(c) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(d) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(e) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

Q. Storm Water Discharges Associated With Industrial Activity From Water Transportation Facilities That Have Vehicle Maintenance Shops and/or Equipment Cleaning Operations

1. Discharges Covered Under This Section

The requirements listed under this section shall apply to storm water discharges from water transportation facilities that have vehicle (vessel) maintenance shops and/or equipment cleaning operations. The water transportation industry includes facilities engaged in foreign or domestic transport of freight or passengers in deep sea or inland waters; marine cargo handling operations; ferry operations; towing and tugboat services; and marinas (facilities commonly identified by Standard Industrial Classification (SIC) code Major Group 44).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges. In addition to the general discharge prohibitions in part III.A, this section specifically prohibits non-storm water discharges of wastewaters, such as bilge and ballast water, sanitary wastes, pressure wash water, and cooling water originating from vessels. The operators of such discharges must obtain coverage under a separate NPDES permit if discharged to waters of the United States or through a municipal separate storm sewer system.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team who are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.Q.3.a.(2)(c) (Spills and Leaks) of this section have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling, engine maintenance and repair, vessel maintenance and repair, pressure washing, painting, sanding, blasting, welding, metal fabrication, loading/unloading areas, locations used for the treatment, storage or disposal of wastes; liquid storage tanks, liquid storage areas (i.e., paint, solvents, resins), and material storage areas (i.e., blasting media, aluminum, steel, scrap iron). In addition, the map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities if applicable: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities (i.e., welding, metal fabricating); significant dust or particulate generating processes (i.e., abrasive blasting, sanding, painting); loading/unloading areas; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. The following areas must be specifically addressed, when applicable at a facility:

(i) Pressure Washing Area—When pressure washing is used to remove marine growth from vessels, the discharge water must be permitted by an NPDES permit. The pollution prevention plan must describe the measures to collect or contain the discharge from the pressure washing area, detail the method for the removal of the visible solids, describe the method of disposal of the collected solids, and identify where the discharge will be released (i.e., the receiving waterbody, storm sewer system, sanitary sewer system).

(ii) Blasting and Painting Areas—The facility must consider containing all blasting and painting activities to prevent abrasives, paint chips, and overspray from reaching the receiving water or the storm sewer system. The plan must describe measures taken at the facility to prevent or minimize the discharge of spent abrasive, paint chips, and paint into the receiving waterbody and storm sewer system. The facility may consider hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris. Where required, a schedule for cleaning storm water conveyances to remove deposits of abrasive blasting debris and paint chips should be addressed within the plan. The plan should include any standard operating practices with regard to blasting and painting activities. Such included items may be the prohibition of performing uncontained blasting and painting over open water or blasting and painting during windy conditions which can render containment ineffective.

(iii) Material Storage Areas—All stored and containerized materials (fuels, paints, solvents, waste oil, antifreeze, batteries) must be stored in a protected, secure location away from drains and plainly labeled. The plan must describe measures that prevent or minimize contamination of the storm water runoff from such storage areas. The facility must specify which materials are stored indoors and consider containment or enclosure for materials that are stored outdoors. Above ground storage tanks, drums, and barrels permanently stored outside must be delineated on the site map with a description of the containment measures in place to prevent leaks and spills. The facility must consider implementing an inventory control plan to prevent excessive purchasing, storage, and handling of potentially hazardous materials. Those facilities where abrasive blasting is performed must specifically include a discussion on the storage and disposal of spent abrasive materials generated at the facility.

(iv) Engine Maintenance and Repair Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for engine maintenance and repair. The facility may consider performing all maintenance activities indoors,

maintaining an organized inventory of materials used in the shop, draining all parts of fluids prior to disposal, prohibiting the practice of hosing down the shop floor, using dry cleanup methods, and/or collecting the storm water runoff from the maintenance area and providing treatment or recycling.

(v) Material Handling Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from material handling operations and areas (i.e., fueling, paint and solvent mixing, disposal of process wastewater streams from vessels). The facility may consider covering fueling areas; using spill and overflow protection; mixing paints and solvents in a designated area, preferably indoors or under a shed; and minimizing runon of storm water to material handling areas or other equivalent measures. Where applicable, the plan must address the replacement or repair of leaking connections, valves, pipes, hoses, and soil chutes carrying wastewater from vessels.

(vi) Drydock Activities—The plan must address the routine maintenance and cleaning of the drydock to minimize the potential for pollutants in the storm water runoff. The plan must describe the procedures for cleaning the accessible areas of the drydock prior to flooding and final cleanup after the vessel is removed and the dock is raised. Cleanup procedures for oil, grease, or fuel spills occurring on the drydock must also be included within the plan. The facility should consider items such as sweeping rather than hosing off debris and spent blasting material from the accessible areas of the drydock prior to flooding and having absorbent materials and oil containment booms readily available to contain and cleanup any spills or other equivalent measures.

(vii) General Yard Area—The plan must include a schedule for routine yard maintenance and cleanup. Scrap metal, wood, plastic, miscellaneous trash, paper, glass, industrial scrap, insulation, welding rods, packaging, etc., must be routinely removed from the general yard area. The facility may consider such measures as providing covered trash receptacles in each yard, on each pier, and on board each vessel being repaired.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, sediment traps to ensure that spent abrasives, paint chips, and solids will be intercepted and retained prior to entering the storm drainage system) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility on a monthly basis. The following areas shall be included in all inspections: pressure washing area; blasting, sanding, and painting areas; material storage areas; engine maintenance and repair areas; material handling areas; drydock area; and general yard area. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify how often training will take place, but in all cases training must be held at least annually (once per calendar year). Employee training must, at a minimum, address the following areas when applicable to a facility: used oil management; spent solvent management; proper disposal of spent abrasives; proper disposal of vessel wastewaters, spill prevention and control; fueling procedures; general good housekeeping practices; proper painting and blasting procedures; and used battery management. Employees, independent contractors, and customers must be informed about BMPs and be required to perform in accordance with these practices. The facility must consider posting instructions, easy to read descriptions or graphic depictions of BMPs, spill control/clean-up equipment and emergency phone numbers in the work areas.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.Q.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the

Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.Q.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures or equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity (pressure washing area, blasting and sanding areas, painting areas, material storage areas, engine maintenance and repair areas, material handling areas, and drydock area) shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.Q.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.Q.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.Q.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the inspection. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with water transportation facilities must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Water transportation facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table Q–1 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table Q–1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE Q–1.—MONITORING REQUIREMENTS

Pollutants of concern	Monitoring cut-off concentration
Total Recoverable Aluminum	0.75 mg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Lead	0.0816 mg/L
Total Recoverable Zinc	0.065 mg/L

(1) Monitoring Periods. Water transportation facilities shall monitor samples collected during the sampling periods of: January to March, April to June, July to September, and October to December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm

event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or non-process water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table Q–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility which drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph b below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph (*b*) below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b. Reporting. Permittees with water transportation facilities shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet.

(*1*) *Additional Notification.* In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), water transportation facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges

exempted below. The examination must be made at least once in each designated period [described in paragraph (1) below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snowmelt: January through March; April through June; July through September; and October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(3) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(6) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

R. Storm Water Discharges Associated With Industrial Activity From Ship and Boat Building or Repairing Yards

1. Discharges Covered Under This Section

The requirements listed under this section apply to storm water discharges from facilities engaged in ship building and repairing and boat building and repairing[5] (Standard Industrial Classification (SIC) code 373).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges. In addition to the prohibitions listed in Part III.A of the permit, this section specifically prohibits non-storm water discharges of wastewaters, such as bilge and ballast water, pressure wash water, sanitary wastes, and cooling water originating from vessels, are not authorized by this permit. The operators of such discharges must obtain coverage under a separate NPDES permit if discharged to waters of the United States or through a municipal separate storm sewer system.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating the location of the outfalls and the types of discharges contained in the drainage areas of the outfalls, an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface

[5] According to the U.S. Coast Guard, a vessel 65 feet or greater in length is referred to as a ship, and a vessel smaller than 65 feet is a boat.

water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.R.3.a.(2)(c) (Spills and Leaks) of this section have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling, engine maintenance and repair, vessel maintenance and repair, pressure washing, painting, sanding, blasting, welding, metal fabrication, loading/unloading areas, locations used for the treatment, storage or disposal of wastes; liquid storage tanks, liquid storage areas (i.e., paint, solvents, resins), and material storage areas (i.e., blasting media, aluminum, steel, scrap iron).

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of a chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities if applicable: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities (i.e., welding, metal fabricating); significant dust or particulate generating processes (i.e., abrasive blasting, sanding, painting); loading/unloading areas; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. The following areas must be specifically addressed, when applicable at a facility:

(i) Pressure Washing Area—When pressure washing is used to remove marine growth from vessels, the discharge water must be permitted as a process wastewater by an NPDES permit.

(ii) Blasting and Painting Areas—The facility must consider containing all blasting and painting activities to prevent abrasives, paint chips, and overspray from reaching the receiving water or the storm sewer system. The plan must describe measures taken at the facility to prevent or minimize the discharge of spent abrasive, paint chips, and paint into the receiving waterbody and storm sewer system. The facility may consider hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris. Where required, a schedule for cleaning storm systems to remove deposits of abrasive blasting debris and paint chips should be addressed within the plan. The plan should include any standard operating practices with regard to blasting and painting activities. Practices may include the prohibition of performing uncontained blasting and painting over open water or blasting and painting during windy conditions which can render containment ineffective.

(iii) Material Storage Areas—All stored and containerized materials (fuels, paints, solvents, waste oil, antifreeze, batteries) must be stored in a protected, secure location away from drains and plainly labeled. The plan must describe measures that prevent or minimize contamination of the storm water runoff from such storage areas. The facility must specify which materials are stored indoors and consider containment or enclosure for materials that are stored outdoors. Above ground storage tanks, drums, and barrels permanently stored outside must be delineated on the site map with a description of the containment measures in place to prevent leaks and spills. The facility must consider implementing an inventory control plan to prevent excessive purchasing, storage, and handling of potentially hazardous materials. Those facilities where abrasive blasting is performed must specifically include a discussion on the storage and disposal of spent abrasive materials generated at the facility.

(iv) Engine Maintenance and Repair Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from all areas used for engine maintenance and repair. The facility must consider performing all maintenance activities indoors, maintaining an organized inventory of materials used in the shop, draining all parts of fluids prior to disposal, prohibiting wet clean up practice where the practice would result in the exposure of pollutants to storm water, using dry cleanup methods, and/or collecting the storm water runoff from the maintenance area and providing treatment or recycling.

(v) Material Handling Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from material handling operations and areas (i.e., fueling, paint & solvent mixing, disposal of process wastewater streams from vessels). The facility must consider covering fueling areas; using spill and overflow protection; mixing paints and

solvents in a designated area, preferably indoors or under a shed; and minimizing runon of storm water to material handling areas. Where applicable, the plan must address the replacement or repair of leaking connections, valves, pipes, hoses, and soil chutes carrying wastewater from vessels.

(vi) Drydock Activities—The plan must address the routine maintenance and cleaning of the drydock to minimize the potential for pollutants in the storm water runoff. The plan must describe the procedures for cleaning the accessible areas of the drydock prior to flooding and final cleanup after the vessel is removed and the dock is raised. Cleanup procedures for oil, grease, or fuel spills occurring on the drydock must also be included within the plan. The facility must consider items such as sweeping rather than hosing off debris and spent blasting material from the accessible areas of the drydock prior to flooding and having absorbent materials and oil containment booms readily available to contain and cleanup any spills.

(vii) General Yard Area—The plan must include a schedule for routine yard maintenance and cleanup. Scrap metal, wood, plastic, miscellaneous trash, paper, glass, industrial scrap, insulation, welding rods, packaging, etc., must be routinely removed from the general yard area. The facility must consider such measures as providing covered trash receptacles in each yard, on each pier, and on board each vessel being repaired.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, sediment traps to ensure that spent abrasives, paint chips, and solids will be intercepted and retained prior to entering the storm drainage system) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) *Spill Prevention and Response Procedures*—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) *Inspections*—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility on a monthly basis. The following areas shall be included in all inspections: pressure washing area; blasting, sanding, and painting areas; material storage areas; engine maintenance and repair areas; material handling areas; drydock area; and general yard area. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) *Employee Training*—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. The pollution prevention plan shall identify how often training will take place, but in all cases training must be held at least annually (once per calendar year). Employee training must, at a minimum, address the following areas when applicable to a facility: used oil management; spent solvent management; proper disposal of spent abrasives; proper disposal of vessel wastewaters, spill prevention and control; fueling procedures; general good housekeeping practices; proper painting and blasting procedures; and used battery management. Employees, independent contractors, and customers must be informed about BMPs and be required to perform in accordance with these practices. The facility should consider posting easy to read descriptions or graphic depictions of BMPs and emergency phone numbers in the work areas.

(f) *Recordkeeping and Internal Reporting Procedures*—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) *Non-storm Water Discharges.*

(*i*) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.R.3.a.(3)(g)(iii) (below).

(*ii*) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(*iii*) *Failure to Certify*—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(*h*) *Sediment and Erosion Control*—The plan shall identify areas which, due

to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.R.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures or other equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity including, but not limited to, pressure washing area, blasting and sanding areas, painting areas, material storage areas, engine maintenance and repair areas, material handling areas, and drydock area, shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.R.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.R.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.R.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B. of this permit.

5. Monitoring and Reporting Requirements

(a) Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a representative storm water discharge associated with industrial activity from each outfall except discharges exempted below. The examination must be made at least once in each designated period [described in (*1*) below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snow melt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term.

(3) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) When a discharger is unable to collect samples over the course of the monitoring period as a result of adverse

climatic conditions, the discharger must document the reason for not performing the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(6) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

S. Storm Water Discharges Associated With Industrial Activity From Vehicle Maintenance Areas, Equipment Cleaning Areas, or Deicing Areas Located at Air Transportation Facilities

1. Discharges Covered Under This Section

The requirements listed under this section shall apply to storm water discharges from establishments and/or facilities including airports, air terminals, air carriers, flying fields, and establishments engaged in servicing or maintaining airports and/or aircraft (generally classified under Standard Industrial Classification (SIC) code 45) which have vehicle maintenance shops, material handling facilities, equipment cleaning operations or airport and/or aircraft deicing/anti-icing operations. For the purpose of this permit, the term "deicing" is defined as the process to remove frost, snow, or ice and "anti-icing" is the process which prevents the accumulation of frost, snow, or ice.

(a) *Coverage.* Only those portions of the facility or establishment that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or deicing/anti-icing operations are addressed under this section.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

(a) *Prohibition of Non-storm Water Discharges.* In addition to those discharges prohibited under Part III.A.2, non-storm water discharges including aircraft, ground vehicle, runway and equipment washwaters, and dry weather discharges of deicing/anti-icing chemicals are not authorized by this permit. Dry weather discharges are those discharges generated by processes other than those included in the definition of storm water. The definition of storm water includes storm water runoff, snow melt runoff, and surface runoff and drainage. All other discharges constitute non-storm water discharges. Operators of non-storm water discharges must obtain coverage under a separate National Pollutant Discharge Elimination System (NPDES) permit if discharged to waters of the United States or through a municipal separate storm sewer system.

(b) *Releases of Reportable Quantities of Hazardous Substances and Oil.* Each individual permittee is required to report spills equal to or exceeding the reportable quantity levels specified at 40 CFR 110, 117, and 302 as described at Part VI.B.2. If an airport authority is the sole permittee, then the sum total of all spills at the airport must be assessed against the RQ. If the airport authority is a co-permittee with other deicing/anti-icing operators at the airport, such as numerous different airlines, the assessed amount must be the summation of spills by each co-permittee. If separate, distinct individual permittees exist at the airport, then the amount spilled by each separate permittee must be the assessed amount for the RQ determination.

3. Storm Water Pollution Prevention Plan Requirements

Storm water pollution prevention plans developed for areas of the facility occupied by tenants of the airport shall be integrated with the plan for the entire airport. For the purposes of today's permit, tenants of the airport facility include airline companies, fixed based operators and other parties which have contracts with the airport authority to conduct business operations on airport property which result in storm water discharges associated with industrial activity as described in paragraph 1 of this section. Plans should be developed in accordance with Part IV. Storm Water Pollution Prevention Plans).

(a) *Contents of Plan.* Each plan shall include, at a minimum, the following items:

(1) *Pollution Prevention Team.* Each plan shall identify a specific individual or individuals as member(s) of a storm water Pollution Prevention Team who are responsible for developing the storm water pollution prevention plan and assisting the facility management in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) *Description of Potential Pollutant Sources.* Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) *Drainage.*

(i) A site map indicating an outline of the drainage area of each storm water outfall within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under paragraph XI.S.3.a.(2)(c) (Spills and Leaks) of this section have occurred, and the locations of the following activities where such activities are exposed to precipitation: aircraft and runway deicing/anti-icing operations; fueling stations; aircraft, ground vehicle and equipment maintenance and/or cleaning areas; storage areas for aircraft, ground vehicles and equipment awaiting maintenance; loading/unloading areas; locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges

associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(*iii*) The site map developed for the entire airport shall indicate the location of each tenant of the facility that conducts industrial activities as described in Part XI.S.1.a., and incorporate information from the tenants site map (including a description of industrial activities, significant materials exposed, and existing management practices).

(*b*) *Inventory of Exposed Materials*—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment of storm water runoff.

(*c*) *Spills and Leaks*—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(*d*) *Sampling Data*—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(*e*) *Risk Identification and Summary of Potential Pollutant Sources*—A narrative description of the potential pollutant sources from the following activities: aircraft, runway, ground vehicle and equipment maintenance and cleaning; aircraft and runway deicing/anti-icing operations (including apron and centralized aircraft deicing/anti-icing stations, runways, taxiways and ramps); outdoor storage activities; loading and unloading operations; and onsite waste disposal. The description shall specifically list any significant potential source of pollutants at the facility and for each potential source, any pollutant or pollutant parameter [e.g., biochemical oxygen demand (BOD_5), oil and grease, etc.] of concern shall be identified.

Facilities which conduct deicing/anti-icing operations shall maintain a record of the types [including the Material Safety Data Sheets (MSDS)] and monthly quantities of deicing/anti-icing chemicals used. Tenants and fixed-base operators who conduct deicing/anti-icing operations shall provide the above information to the airport authority for inclusion in the storm water pollution prevention plan for the entire facility.

(3) Measures and Controls. Operators covered by this permit shall develop a description of storm water management controls appropriate for their areas of operation, and implement such controls. The priority in selecting controls shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner.

(i) Aircraft, Ground Vehicle and Equipment Maintenance Areas—Permittees should ensure the maintenance of equipment is conducted in designated areas only and clearly identify these areas on the ground and delineate them on the site map. The plan must describe measures that prevent or minimize the contamination of the storm water runoff from all areas used for aircraft, ground vehicle and equipment maintenance (including the maintenance conducted on the terminal apron and in dedicated hangars). Management practices or equivalent measures such as performing maintenance activities indoors, maintaining an organized inventory of materials used in the maintenance areas, draining all parts of fluids prior to disposal, preventing the practice of hosing down the apron or hangar floor, using dry cleanup methods, and/or collecting the storm water runoff from the maintenance area and providing treatment or recycling should be considered.

(ii) Aircraft, Ground Vehicle and Equipment Cleaning Areas—Permittees should ensure that cleaning of equipment is conducted in designated areas only and clearly identify these areas on the ground and delineate them on the site map. The plan must describe measures that prevent or minimize the contamination of the storm water runoff from all areas used for aircraft, ground vehicle and equipment cleaning. Management practices such as performing cleaning operations indoors, and/or collecting the storm water runoff from the cleaning area and providing treatment or recycling should be considered.

(iii) Aircraft, Ground Vehicle and Equipment Storage Areas—The storage of aircraft, ground vehicles and equipment awaiting maintenance must be confined to designated areas (delineated on the site map). The plan must describe measures that prevent or minimize the contamination of the storm water runoff from these areas. Management practices such as indoor storage of aircraft and ground vehicles, the use of drip pans for the collection of fluid leaks, and perimeter drains, dikes or berms surrounding storage areas should be considered.

(iv) Material Storage Areas—Storage units of all materials (e.g., used oils, hydraulic fluids, spent solvents, and waste aircraft fuel) must be maintained in good condition, so as to prevent or minimize contamination of storm water, and plainly labeled (e.g., "used oil," "Contaminated Jet A," etc.). The plan must describe measures that prevent or minimize contamination of the storm water runoff from storage areas. Management practices or equivalent measures such as indoor storage of materials, centralized storage areas for waste materials, and/or installation of berming and diking around storage areas should be considered for implementation.

(v) Airport Fuel System and Fueling Areas—The plan must describe measures that prevent or minimize the discharge of fuels to the storm sewer resulting from fuel servicing activities or other operations conducted in support of the airport fuel system. Where the discharge of fuels into the storm sewer cannot be prevented, the plan shall indicate measures that will be employed to prevent or minimize the discharge of the contaminated runoff into receiving

surface waters. Management practices or equivalent measures such as implementing spill and overflow practices (e.g., placing sorptive materials beneath aircraft during fueling operations), using dry cleanup methods, and/or collecting the storm water runoff should be considered.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, removing debris from catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. The plan shall describe material handling procedures, storage requirements, and consider the use of equipment such as diversion valves. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Source Reduction—Operators who conduct aircraft and/or runway (including taxiways and ramps) deicing/anti-icing operations shall evaluate present operating procedures to consider alternative practices to reduce the overall amount of deicing/anti-icing chemicals used and/or lessen the environmental impact of the pollutant source.

(i) With regard to runway deicing operations, operators, at a minimum, shall evaluate: present application rates to ensure against excessive over application; metered application of deicing chemical; pre-wetting dry chemical constituents prior to application; installation of runway ice detection systems; implementing anti-icing operations as a preventive measure against ice buildup; the use of substitute deicing compounds such as potassium acetate in lieu of ethylene glycol, propylene glycol and/or urea.

(ii) In considering source reduction management practices for aircraft deicing operations, operators, at a minimum, should evaluate current application rates and practices to ensure against excessive over application, and consider pretreating aircraft with hot water prior to the application of a deicing chemical, thus reducing the overall amount of chemical used per operation.

Source reduction measures that the operator determines to be reasonable and appropriate shall be implemented and maintained. The plan shall provide a narrative explanation of the options considered and the reasoning for whether or not to implement them.

(e) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which prevent or reduce source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.S.3.a.(2) (Description of Potential Pollutant Sources)] shall be considered. Appropriate measures or equivalent measures may include: vegetative swales, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices. Measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained.

(i) Operators that conduct aircraft and/or runway deicing/anti-icing operations shall also provide a narrative consideration of management practices to control or manage contaminated runoff from areas where deicing/anti-icing operations occur to reduce the amount of pollutants being discharged from the site. Structural controls such as establishing a centralized aircraft deicing facility, and/or collection of contaminated runoff for treatment or recycling should be considered. Collection and treatment alternatives include, but are not limited to, retention basins, detention basins with metered controlled release, Underground Storage Tanks (USTs) and/or disposal to Publicly Owned Treatment Works (POTW) by way of sanitary sewer or hauling tankers. Runoff management controls that the operator determines to be reasonable and appropriate shall be implemented and maintained. The plan should consider the recovery of deicing/anti-icing materials when these materials are applied during non-precipitation events to prevent these materials from later becoming a source of storm water contamination. The plan shall provide a narrative explanation of the controls selected and the reasons for their selection.

(f) Inspections—In addition to or as part of the comprehensive site evaluation required under paragraph XI.S.3.a.(4) of this section, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility specified in the plan. The inspection frequency shall be specified in the plan, but at a minimum be conducted once per week during deicing/anti-icing application periods for areas where deicing/anti-icing operations are being conducted. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained. The use of a checklist developed by the pollution prevention team is encouraged.

(g) Pollution Prevention Training—Pollution prevention training programs shall be developed to inform management and personnel responsible for implementing activities identified in the storm water pollution prevention plan of the components and goals of the plan. Training should address topics such as spill response, good housekeeping, aircraft and runway deicing/anti-icing procedures, and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(h) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan. Inspections and maintenance activities shall be documented and records shall be incorporated into the plan.

(i) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge points have been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of

access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.S.3.a.(3)(iii) (below).

(ii) Except for flows from fire fighting activities, other sources of non-storm water listed in Part III.A.2 (Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting a notice of intent to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(j) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations during periods of deicing/anti-icing operations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.S.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.S.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.S.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(f), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those in Part V.B of this permit.

5. Monitoring and Reporting Requirements

a. During the period beginning on the effective date and lasting through the expiration date of this permit, (airports that use more than 100,000 gallons of glycol-based deicing/anti-icing) chemicals and/or 100 tons or more of urea on an average annual basis):

(1) Shall prepare estimates for annual pollutant loadings resulting from discharges of spent deicing/anti-icing chemicals from the entire airport. The loading estimates shall reflect the amounts of deicing/anti-icing chemicals discharged to separate storm sewer systems or surface waters, prior to and after implementation of the facility's storm water pollution prevention plan. Such estimates shall be reviewed by an environmental professional, and certified by such professional. By means of the certification, the environmental professional, having examined the facility's deicing/anti-icing procedures, and proposed control measures described in the storm water pollution prevention plan, shall attest that the loading estimates have been accurately prepared. Certified loading estimates are to be retained at the airport facility and attached to the storm water pollution prevention plan.

b. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], airports that use more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis shall monitor outfalls from the airport facility that collect runoff from areas where deicing/anti icing activities occur, except as provided in paragraph 5.a.(3) (Sampling Waiver). Airports which are subject to these monitoring requirements must sample their storm water discharges for the parameters listed in Table S–1 below. Such facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table S–1 below, the permittee shall provide the date and duration (in hours) of the precipitation event(s) sampled; measurements or estimates (in inches) of the precipitation event that generated the sampled runoff; the duration between the event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE S–1.—MONITORING REQUIREMENTS

Pollutants of concern	Monitoring cut-off concentration
Biochemical Oxygen Demand (BOD_5).	30 mg/L
Chemical Oxygen Demand (COD).	120 mg/L
Ammonia	19 mg/L
pH	6.0 to 9 s.u.

For the purposes of today's final permit, the "average annual" usage rate of deicing/anti-icing chemicals is determined by averaging the cumulative amount of deicing/anti-icing chemicals used by all operators at the airport facility in the 3 previous calendar years.

(1) Monitoring Periods. Airports where more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea are used on an average annual basis shall monitor outfalls from the facility that collect runoff from areas where deicing/anti-icing activities occur four times per year during the months of December, January, and February when deicing/anti-icing activities are occurring, in the years specified in paragraph b. (above).

(2) Sample Type. A minimum of one grab sample and one flow-weighted composite sample shall be taken from each outfall that collects runoff from areas where deicing/anti-icing activities occur. All such samples shall be collected from a discharge resulting from a precipitation event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) precipitation event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample should be taken when pollutant concentrations in the storm water/melt water discharges from deicing/anti-icing operations are expected to be at a maximum. The recommended methodology for performing grab and flow-weighted composite sampling is described at 40 CFR 122.21(g)(7). The permittee has the option to submit site-specific deicing/anti-icing discharge monitoring protocol and methodology, better suited to the particular facility, to the Director for approval.

(3) Sampling Waiver.

(a) Adverse Conditions—Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as high winds, blizzard conditions, ice storms, etc.) or otherwise make the collection of a sample impracticable (extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a parameter calculated from all grab samples collected during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that parameter listed in Table S–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility which drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. The Alternative Certification provision discussed in other sections of Part XI is not applicable to discharges included under Part XI.S. (Storm Water Discharges Associated with Industrial Activity from Vehicle Maintenance Areas, Equipment Cleaning Areas, or Deicing/Anti-icing Areas Located at Air Transportation Facilities).

(c) Reporting. Airports identified in Part XI.S.5.6 shall submit monitoring results obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of March [insert the date 2 years after permit issuance]. Monitoring results obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of March [insert date 4 years after permit issuance]. A separate Discharge Monitoring Report Form is required for each sampling period. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports, or waiver, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph cb (above), facilities identified in Part XI.S.5.6 that discharge storm water to a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph bc (above).

T. Storm Water Discharges Associated With Industrial Activity From Treatment Works

1. Discharges Covered Under This Section

a. This permit covers all existing point source discharges of storm water from treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including lands dedicated to the disposal of sewage sludge that are located within the confines of the facility with a design flow of 1.0 MGD or more, or required to have an approved pretreatment program under 40 CFR Part 403. When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges. Prohibited non-storm water discharges including sanitary and industrial wastewater, and equipment and vehicle washwaters are not authorized by this permit. The operators of such discharges must obtain coverage under a separate NPDES permit if discharged to waters of the United States or through a municipal separate storm sewer system.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of the Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team who are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage—A site map indicating the location of each point of discharge of storm water associated with industrial activity, types of discharges contained in the drainage areas of the outfalls, an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries (with a prediction of the direction of flow), each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part III.B. (Spills and Leaks) of this permit have occurred. In addition, the locations of the following activities shall be indicated: fueling areas; vehicle and equipment maintenance and/or cleaning areas; locations used for treatment, storage and disposal areas for wastes, liquid storage tanks, processing areas and storage areas for process chemicals, petroleum products, solvents, fertilizers, herbicides and pesticides; and loading/unloading areas.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities associated with treatment works: access roads/rail lines; loading and unloading operations; outdoor storage activities; material handling sites; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., acid, bases, and solvents, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—All areas that may contribute pollutants to storm waters discharges shall be maintained in a clean, orderly manner.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points, shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures and equipment for cleaning up spills shall be identified in the plan and made available to the appropriate personnel.

(d) Inspections—In addition to the comprehensive site evaluation required under Part XI.T.3.a.(4) of this permit, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility on a periodic basis. The following areas shall be included in all inspections: access roads/rail lines, equipment storage and maintenance areas (both indoor and outdoor areas); fueling; material handling areas, residual treatment, storage, and disposal areas; and wastewater treatment areas. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained. The use of a checklist developed by the facility is encouraged.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify how often training will take place, but training should be held at least annually (once per calendar year). Employee training must, at a minimum, address the following areas when applicable to a facility: petroleum product management; process chemical management; spill prevention and control; fueling procedures; general good housekeeping practices; proper procedures for using fertilizers, herbicides and pesticides.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be practical if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not practical, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with Part XI.T.3.a.(3)(g)(iv) (Failure to Certify) of this permit.

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2. (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) A copy of all the current NPDES permit issued for wastewater, industrial, vehicle and equipment washwater discharges or, if an NPDES permit has not yet been issued, a copy of the pending application must be attached to the plan. For facilities that discharge vehicle and equipment washwaters to the sanitary sewer system, the operator of the sanitary system and associated treatment plant must be notified. In such cases, a copy of the notification letter must be attached to the plan. If an industrial user permit is issued under a pretreatment program, a copy of that permit must be attached in the plan. In all cases, any permit conditions must be considered in the plan. If the washwaters are handled in another manner (e.g., hauled offsite), the disposal method must be described and all pertinent documentation (e.g., frequency, volume, destination, etc.) must be attached to the plan.

(iv) Failure to Certify. Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [insert date 270 days after permit issuance] or, for facilities that begin to discharge storm water associated with industrial activity after [insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notifications shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States that are not authorized by an NPDES permit are unlawful and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see Part XI.T.3.a.(2) (Description of Potential Pollutant Sources) of this permit] shall be considered when determining reasonable and appropriate measures. Appropriate measures or other equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source); inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with Part XI.T.3.a.(2) (Description of Potential Pollutant Sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.T.3.a.(3) (Measures and Controls) of this permit shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.T.3.a.(4)(b) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no numeric effluent limitations beyond those in Part V.B.

5. Monitoring and Reporting Requirements

a. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each of the following designated periods during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event: January through March; April through June; July through September; and October through December.

(1) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the observation data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the results of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

U. Storm Water Discharges Associated With Industrial Activity From Food and Kindred Products Facilities

1. Discharges Covered Under This Section

This section covers all storm water discharges from food and kindred products processing facilities (commonly identified by Standard Industrial Classification (SIC) code 20), including: meat products; dairy products; canned, frozen and preserved fruits, vegetables, and food specialties; grain mill products; bakery products; sugar and confectionery products; fats and oils; beverages; and miscellaneous food preparations and kindred products and tobacco products manufacturing (SIC Code 21), except for storm water

discharges identified under paragraph I.B.3. where industrial plant yards; material handling sites; refuse sites; sites used for application or disposal of process wastewaters; sites used for storage and maintenance of material handling equipment; sites used for residential treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; and storage areas for raw material and intermediate and finished products are exposed to storm water and areas where industrial activity has taken place in the past and significant materials remain. For the purposes of this paragraph, material handling activities include the storage, loading, and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges.

(1) Discharges of non-storm water, including boiler blowdown, cooling tower overflow and blowdown, ammonia refrigeration purging, and vehicle washing/clean-out operations, to waters of the United States, or through municipal separate storm sewer systems, are not authorized by this permit (except those discharges identified in part III.A.2 in the permit). The operators of such discharges must obtain coverage under a separate NPDES wastewater discharge permit.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage—A site map indicating the pattern of storm water drainage, existing structural control measures to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, and locations where major spills or leaks identified under Part XI.U.3.a.(2)(c) (Spills and Leaks) of this permit have occurred since 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. The map must also indicate the locations of all industrial activities that are exposed to precipitation, including, but not limited to: loading/unloading areas; vehicle fueling; vehicle and equipment maintenance and/or cleaning areas; waste treatment, storage and disposal locations; liquid storage tanks; vents and stacks from cooking, drying, and similar operations, dry product vacuum transfer lines; animal holding pens; spoiled product and broken product container storage areas; significant dust or particulate generating areas; and any other processing and storage areas exposed to storm water. Flows with a significant potential for causing erosion shall also be identified. In addition, the site map must identify monitoring locations. In addition, the map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Summary of Potential Pollutant Sources—The description of potential pollutant sources culminates in a narrative assessment of the risk potential that the industrial activities, materials, and physical features of the site, as identified in XI.U.3.a.(2)(a) (drainage), pose to storm water quality. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, oil and grease, etc.) of concern shall be identified.

In addition to food and kindred products processing-related industrial activities, the plan must also describe application/storage of pest control chemicals (e.g., rodenticides, insecticides, fungicides, and others) used on plant grounds, including a description of pest control application and chemical storage practices.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following

minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm waters discharges in a clean, orderly manner.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Areas that must be identified should include loading/unloading stations, outdoor storage areas, and waste management areas exposed to storm water. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—In addition to the comprehensive site evaluation required under Part XI.U.3.a.(4) of this section, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility. At a minimum, the following areas, where the potential for exposure to storm water exists, must be inspected on a regularly scheduled basis: loading and unloading areas for all significant materials; storage areas, including associated containment areas; waste management units; vents and stacks emanating from industrial activities; spoiled product and broken product container holding areas; animal holding pens; staging areas; and air pollution control equipment. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained. Based on the results of the inspection, the description of potential pollutant sources and pollution prevention measures and controls identified in the plan shall be revised as appropriate within 2 weeks of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the inspection.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping, material management practices, unloading/loading practices, outdoor storage areas, waste management practices, pest control, and improper connections to the storm sewer. At a minimum, this training must be provided annually. The pollution prevention plan shall identify frequencies and approximate dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. Ineffective BMPs must be recorded and the date of their corrective actions noted in the plan.

(g) Non-storm Water Discharges

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with Part XI.U.3.a.(3)(g)(iv) (Failure to Certify) of this permit.

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) If the facility discharges wastewater, other than storm water via an existing NPDES permit, a copy of the NPDES permit authorizing the discharge must be attached to the plan. Similarly, if the facility submitted an application for an NPDES permit for non-storm water discharges, but has not yet received that permit, a copy of the permit application must be attached. Upon issuance or reissuance of an NPDES permit, the facility must modify its plan to include a copy of that permit.

(iv) Failure To Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which

control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see Part XI.U.3.a.(2) (Description of Potential Pollutant Sources) of this permit] shall be considered when determining reasonable and appropriate measures. Appropriate measures or equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Where compliance evaluation schedules overlap with inspections required under XI.U.3.a.(3)(d) of this section, the compliance evaluation may be conducted in place of one such inspection. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with Part XI.U.3.a.(2) (Description of Potential Pollutant Sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.U.3.a.(3) (Measures and Controls) of this permit shall be revised as appropriate within 2 weeks of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the inspection.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.U.3.a.(4)(d) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) The storm water pollution prevention plan must describe the scope and content of the comprehensive site evaluations that qualified personnel will conduct to (1) confirm the accuracy of the description of potential sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of the permit. The individual or individuals who will conduct the evaluations must be identified in the plan and should be members of the pollution prevention team, as identified in Part XI.U.3.a.(1) (Pollution Prevention Team).

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with grain mill and fats and oils products facilities must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Grain mill and fats and oils products facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table U–1 or U–2 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table U–1 or U–2 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE U–1.—GRAIN MILL PRODUCTS

Pollutant of concern	Cut-off concentration (mg/L)
Total Suspended Solids	100

TABLE U–2.—FATS AND OILS PRODUCTS MONITORING REQUIREMENTS

Pollutant of concern	Cut-off concentration (mg/L)
Biochemical Oxygen Demand (BOD_5)	30
Chemical Oxygen Demand (COD)	120
Nitrate Plus Nitrite Nitrogen	0.68
Total Suspended Solids	100

(1) Monitoring Periods. Grain mill and fats and oils products facilities shall monitor samples collected during the sampling periods of: January to March, April to June, July to September, and October to December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first

hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or non-process water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table U–1 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility which drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall, or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph *b* below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity, that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph *(b)* below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

b. Reporting. Permittees with grain mill and fats and oils products facilities shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results (or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet to this permit.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above) food and kindred products, facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

a. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) must be made at least once in each of the following 3-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of a grab sample collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of

when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)) shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

V. Storm Water Discharges Associated With Industrial Activity From Textile Mills, Apparel, and Other Fabric Product Manufacturing Facilities

1. Discharges Covered Under This Section

The requirements listed under this section shall apply to storm water discharges from the following activities: Textile Mill Products, of and regarding facilities and establishments engaged in the preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage, the manufacturing of broadwoven fabrics, narrow woven fabrics, knit fabrics, and carpets and rugs from yarn; processes involved in the dyeing and finishing of fibers, yarn fabrics, and knit apparel; the integrated manufacturing of knit apparel and other finished articles of yarn; the manufacturing of felt goods (wool), lace goods, nonwoven fabrics, miscellaneous textiles, and other apparel products (generally described by SIC codes 22 and 23).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges.

(1) In addition to the general prohibition of non-storm waster discharges at Part III A.2 of this permit to discharges of wastewater, such as wastewater as a result of wet processing, wastewaters resulting from any processes relating to the production process, reused or recycled water, and waters used in cooling towers are prohibited under this permit. Operators of such discharges to waters of the United States, must obtain coverage under a separate NPDES permit.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team who are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.V.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation:

loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks or silos, bulk storage areas that may exist, processing areas and storage areas, fueling stations, vehicle and equipment maintenance and/or cleaning areas. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; onsite waste disposal practices; industry-specific significant materials and industrial activities (e.g., backwinding, beaming, bleaching, backing, bonding carbonizing, carding, cut and sew operations, desizing, drawing, dyeing flocking, fulling, knitting, mercerizing, opening, packing, plying, scouring, slashing, spinning, synthetic-felt processing, textile waste processing, tufting, turning, weaving, web forming, winging, yarn spinning, and yarn texturing). The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. The following areas must be specifically addressed, when applicable at the facility:

(i) Material Storage Areas—All stored and containerized materials (fuels, petroleum products, solvents, dyes, etc.) must be stored in a protected area, away from drains and clearly labeled. The plan must describe measures that prevent or minimize contamination of storm water runoff from such storage areas. The facility should specify which materials are stored indoors and must provide a description of the containment area or enclosure for those materials which are stored outdoors. Above ground storage tanks, drums, and barrels permanently stored outside must be delineated on the site map with a description of the appropriated containment measures in place to prevent leaks and spills. The facility may consider an inventory control plan to prevent excessive purchasing, storage, and handling of potentially hazardous substances. In the case of storage of empty chemical drums and containers, facilities should employ practices which ensure that barrels are clean and residuals are not subject to contact with storm water, such practices may include triple-rinsing containers. The discharge waters from such washings must be collected and disposed of properly.

(ii) Material Handling Area—The plan must describe measures that prevent or minimize contamination of the storm water runoff from materials handling operations and areas. The facility may consider the use of spill and overflow protection; covering fueling areas; covering and enclosing areas where the transfer of materials may occur. Where applicable, the plan must address the replacement or repair of leaking connections, valves, transfer lines and pipes that may carry chemicals, dyes, or wastewater.

(iii) Fueling Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from fueling areas. The facility may consider covering the fueling area, using spill and overflow protection, minimizing runon of storm water to the fueling area, using dry cleanup methods, and/or collecting the storm water runoff and providing treatment or recycling.

(iv) Above Ground Storage Tank Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from above ground storage tank areas. The facility must consider storage tanks and their associated piping and valves. The facility may consider regular cleanup of these areas, preparation of a spill prevention control and countermeasure program, provide spill and overflow protection, minimizing runon of storm water from adjacent areas, restrict access to the area, insertion of filters in adjacent catch basins, provide absorbent booms in unbermed fueling areas, use of dry cleanup methods, and permanently sealing drains within critical areas that may discharge to a storm drain.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, sediment traps, catch basins, infiltration devices, ponds) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns

or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. Inspection intervals are to occur on a monthly basis. Inspections of this nature shall include, but not be limited to, the following areas: all containment and storage areas, transfer and transmission lines, spill prevention, good housekeeping practices, management of process waste products, all structural and nonstructural management practices. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify dates for such training to take place at least annually (once per calendar year). Employee training must, at a minimum address the following areas when applicable to a facility: use of reused/recycled waters; solvents management; proper disposal of dyes; proper disposal of petroleum products and spent lubricants; spill prevention and control; fueling procedures; and general good housekeeping practices. Employees, independent contractors, and customers must be informed about BMPs and be required to perform in accordance with these practices. Copies of BMPs and any specific management plans, including emergency phone numbers, shall be posted in the work areas.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.V.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2. of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.V.3.a.(2) of this section [Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures or other equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity (storage tank areas, waste disposal and storage areas, dumpsters and open containers stored outside, materials storage areas, engine maintenance and repair areas, material handling areas, and loading dock areas) shall be visually inspected for evidence of, or the potential for, pollutants

entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.V.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.V.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.V.3:a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

5. Monitoring and Reporting Requirements

a. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a representative storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated period [described in *(1)*, below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Whenever practicable the same individual will carry out the collection and examination of discharges for the life of the permit.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(3) Visual examination reports must be maintained in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and an explanation in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

W. Storm Water Discharges Associated With Industrial Activity From Wood and Metal Furniture and Fixture Manufacturing Facilities

1. Discharges Covered Under This Section.

The requirements listed under this section shall apply to storm water discharges associated with industrial activities from facilities involved in the manufacturing of: wood kitchen cabinets (generally described by SIC code 2434); household furniture (generally described by SIC code 251); office furniture (generally described by SIC code 252); public buildings and related furniture (generally described by SIC code 253); partitions, shelving, lockers, and office and store fixtures (generally described by SIC code 254); and miscellaneous furniture and fixtures (generally described by SIC code 259).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

a. Prohibition of Non-storm Water Discharges. This section does not cover any discharge subject to process wastewater effluent limitation guidelines, including storm water that combines with process wastewater.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.W.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading and unloading areas; material storage (including tanks or other vessels used for liquid or waste storage) areas; outdoor material processing areas; areas where wastes are treated, stored, or disposed; access roads; and rail spurs. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste treatment, storage, or disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm

water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—In addition to the comprehensive site compliance evaluation required under Part XI.W.3.a.(4), of this permit, qualified facility personnel shall be identified to inspect the following on a quarterly basis: the integrity of storm water discharge diversions, conveyance systems, sediment control and collection systems, and containment structures; vegetative BMPs to determine if soil erosion has occurred; and material handling and storage areas and other potential sources of pollution for evidence of actual or potential pollutant discharges of contaminated storm water. Information must be maintained onsite and include the inspection date and time and the name of personnel conducting the visual inspection. The pollution prevention plan must be updated based on the results of each inspection. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained. The use of a checklist developed by the facility is encouraged.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), BMP inspection and maintenance activities, along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. Ineffective BMPs must be reported and the date of their corrective action noted.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.W.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2. (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.W.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures or other equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity including, but not limited to, coal piles, ash disposal areas, loading/unloading operations, and waste treatment, storage, or disposal locations shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual

inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.W.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.W.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.W.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under XI.W.3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

5. Monitoring and Reporting Requirements

a. Monitoring Requirements.

(1) Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated period (described in (a), below) during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(a) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(b) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Whenever practicable the same individual will carry out the collection and examination of discharges for the life of the permit.

(c) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(d) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

(e) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(f) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the observation data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40 percent), medium (40 to 65 percent) or high (above 65 percent)) shall be provided in the plan.

(g) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

X. Storm Water Discharges Associated With Industrial Activity From Printing and Publishing Facilities

1. Discharges Covered Under This Section

The requirements listed under this section shall apply to storm water discharges associated with industrial activity from the following types of facilities: book printing (SIC Code 2732); commercial printing, lithographic (SIC Code 2752); commercial printing, gravure (SIC Code 2754); commercial printing, not elsewhere classified (SIC Code 2759); and platemaking and related services (SIC Code 2796).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being

conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

There are no additional special conditions beyond those found in Part III. of today's permit.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.X.3.a.(2)(c) (Spills and Leaks) of this section have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas. Above ground storage tanks, drums, and barrels permanently stored outside must be delineated on the site map. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities associated with printing, publishing and allied facilities: loading and unloading operations; outdoor storage activities; significant dust or particulate generating processes; and onsite waste disposal practices (i.e., blanket wash). The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., oil and grease, scrap metal, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. Areas where good housekeeping should be implemented include:

(i) Material Storage Areas—All stored and containerized materials (skids, pallets, solvents, bulk inks, and hazardous waste, empty drums, portable/mobile containers of plant debris, wood crates, steel racks, fuel oil, etc.) should be stored in a protected area, away from drains and properly labeled. The plan should describe measures that prevent or minimize contamination of the storm water runoff from such storage areas. The facility should specify which materials are stored indoors and must provide a description of the containment area or enclosure for those materials which are stored outdoors. The facility may consider an inventory control plan to prevent excessive purchasing, storage, and handling of potentially hazardous substances. The facility may consider indoor storage of the materials and/or

installation of berming and diking of the area.

(ii) Material Handling Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from materials handling operations and areas (i.e., blanket wash, mixing solvents, loading/unloading materials). The facility may consider the use of spill and overflow protection; covering fuel areas; covering and enclosing areas where the transfer of materials may occur. Where applicable, the plan must address the replacement or repair of leaking connections, valves, transfer lines and pipes that may carry chemicals, or wastewater.

(iii) Fueling Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from fueling areas. The facility may consider covering the fueling area, using spill and overflow protection, minimizing runon of storm water to the fueling area, using dry cleanup methods, and/or collecting the storm water runoff and providing treatment or recycling.

(iv) Above Ground Storage Tank Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from above ground storage tanks and their associated piping and valves. The facility may consider regular cleanup of these areas, preparation of a spill prevention control and countermeasure program, provide spill and overflow protection, minimizing runon of storm water from adjacent facilities and properties, restrict access to the area, insertion of filters in adjacent catch basins, provide absorbent booms in unbermed fueling areas, use of dry cleanup methods, and permanently sealing drains within critical areas that may discharge to a storm drain.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, vegetative swales, secondary containment, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility on an annual basis. The following areas shall be included in, but not limited to, all inspections: all containment and material storage areas, fueling areas, loading and unloading areas, equipment cleaning areas. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. The pollution prevention plan shall identify how often training will take place, but training should be provided annually. Employee training must, at a minimum, address the following areas when applicable to a facility: spent solvent management; spill prevention and control; used oil management; fueling procedures; and general good housekeeping practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.X.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional

storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.X.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures or other equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity (including, but not limited to, material handling areas, material storage areas, waste disposal and storage areas, loading/unloading areas) shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.X.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.X.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.X.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B. of this permit.

5. Monitoring and Reporting Requirements

a. Monitoring Requirements.

(1) Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity for each outfall except discharges exempted below. The examination must be made at least once in each designated period [described in (*a*), below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(a) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(b) Examinations shall be made of a grab sample collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Whenever practicable the same individual will carry out the collection and examination of discharges for the life of the permit.

When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(c) Visual examination reports must be maintained in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(d) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the

drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(e) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

Y. Storm Water Discharges Associated With Industrial Activity From Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries

1. Discharges Covered Under This Section

The requirements listed under this section shall apply to all storm water discharges associated with industrial activity from rubber and miscellaneous plastic products manufacturing facilities (SIC major group 30) and miscellaneous manufacturing industries, except jewelry, silverware, and plated ware (SIC major group 39, except 391).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

Prohibition of Non-storm Water Discharges. Other than as provided in Part III.A. of this permit, non-storm water discharges are not authorized by this section.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. All rubber manufacturers shall in particular review the use of zinc at their facilities and the possible pathways through which zinc may be discharged in storm water runoff. Each plan shall include, at a minimum:

Drainage.

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.Y.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of a chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of

controls in a plan shall reflect identified potential sources of pollutants at the facility. Facilities subject to EPCRA Section 313 should note that the special requirements of Part IV.E. of this permit also apply to their facilities. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a cleanup should be available to personnel.

(d) Inspections—In addition to or as part of the comprehensive site evaluation required under paragraph XI.Y.3.a.(4) of this section, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.Y.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.Y.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures or other equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(j) Special Requirements for All Rubber Products Manufacturers—All rubber products manufacturing facilities shall include specific measures and controls to minimize the discharge of zinc in their storm water discharges. The following possible sources of zinc shall be reviewed and the accompanying BMPs shall be included as appropriate in the storm water pollution prevention plan:

(i) Inadequate Housekeeping—All permittees shall review the handling

and storage of zinc bags at their facilities and consider the following BMPs for the pollution prevention plan: employee training regarding the handling and storage of zinc bags, indoor storage of zinc bags, thorough cleanup of zinc spills without washing the zinc into the storm drain, and the use of 2,500-pound sacks of zinc rather than 50- to 100-pound sacks.

(ii) Zinc in Dumpsters—The following BMPs or equivalent measures shall be considered to reduce discharges of zinc from dumpsters: providing a cover for the dumpster; move the dumpster to an indoors location; or provide a lining for the dumpster.

(iii) Malfunctioning Dust Collectors or Baghouses—Permittees shall review dust collectors and baghouses as possible sources in zinc in storm water runoff. Improperly operating dust collectors or baghouses shall be replaced or repaired as appropriate. The pollution prevention plan shall also provide for regular maintenance of these facilities.

(iv) Grinding Operations—Permittees shall review dust generation from rubber grinding operations at their facility and, as appropriate, install a dust collection system.

(v) Zinc Stearate Coating Operations—Permittees shall include in the pollution prevention plan appropriate measures to prevent and/or clean up drips or spills of zinc stearate slurry which may be released to the storm drain. Alternate compounds to zinc stearate shall also be considered.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.Y.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.Y.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.Y.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations

There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements.

During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with rubber product manufacturing facilities must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 6.a.(3) (Sampling Waiver), 6.a.(4) (Representative Discharge), and 6.a.(5) (Alternative Certification). Rubber product manufacturing facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table Y–1 below. Facilities must report in accordance with 6.b. (Reporting). In addition to the parameters listed in Table Y–1 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE Y–1—MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Recoverable Zinc ...	0.065 mg/L

(1) Monitoring Periods. Rubber product manufacturing facilities shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Water.

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutant listed in Table Y–1 under the column Monitoring Cut-Off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in area of the facility that drains to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent, or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis, in lieu of monitoring reports required under paragraph b below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph b below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance monitoring requirements associated with effluent limitations.

(b) Reporting. Permittees with rubber product manufacturing facilities shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications,shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph (b) (above), rubber product manufacturing facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph (b) (above).

(c) Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a representative storm water discharge associated with industrial from each outfall, except discharges exempted below. The examination must be made at least once in each designated period [described in *(1)*, below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No

analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Whenever practicable the same individual will carry out the collection and examination of discharges for the life of the permit.

(3) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the observation data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(6) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

Z. Storm Water Discharges Associated With Industrial Activity From Leather Tanning and Finishing Facilities

1. Discharges Covered Under This Section.

The requirements listed under this section shall apply to storm water discharges from the following activities: leather tanning, currying and finishing (commonly identified by Standard Industrial Classification (SIC) code 3111). Discharges from facilities that make fertilizer solely from leather scraps and leather dust are also covered under this section. When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions

There are no special conditions for this section beyond those in Part III. of this permit.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources or, during periods of dry weather, result in dry weather flows. Each plan shall include, at a minimum:

(a) Drainage.

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies (including wetlands), locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.Z.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, material storage (including tanks or other vessels used for liquid or waste storage), processing and storage areas for activities associated with beamhouse, tanyard, retan-wet finishing and dry finishing operations, and haul roads, access roads and rail spurs. The site map must also identify the location of all outfalls covered by this permit and include an inventory of the types of discharges contained in each outfall.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of a chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history

of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives. The description must be updated whenever there is a significant change in the types or amounts of materials, or material management practices, that may affect the exposure of materials to storm water.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Significant spills include but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Section 311 of the Clean Water Act (CWA) (see 40 CFR 110.10 and 40 CFR 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR 302.4). Significant spills may also include releases of oil or hazardous substances that are not in excess of reporting requirements and releases of materials that are not classified as oil or a hazardous substance. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of potential pollutant sources including but not limited to the following activities: loading and unloading operations; outdoor storage activities, including but not limited to: temporary or permanent storage of fresh and brine cured hides, chemical drums, bags, containers and above ground tanks, leather dust, scraps, trimmings and shavings, spent solvents, extraneous hide substances and hair, and empty chemical containers and bags; floor sweepings and washings; refuse and waste piles and sludge; outdoor manufacturing or processing activities; significant dust or particulate generating processes including buffing; vehicle maintenance, washing and fueling and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, total suspended solids, chromium, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. The following areas must be specifically addressed:

(i) Storage Areas for Raw, Semiprocessed, or Finished Tannery By-products—Pallets and/or bales of raw, semiprocessed or finished tannery by-products (e.g., splits, trimmings, shavings, etc.) should be stored indoors or protected by polyethylene wrapping, tarpaulins, roofed storage area or other suitable means. Materials should be placed on an impermeable surface, the area should be enclosed or bermed or other equivalent measures should be employed to prevent runon and runoff of storm water.

(ii) Material Storage Areas—Label storage units of all materials (e.g., specific chemicals, hazardous materials, spent solvents, waste materials). Maintain such containers and units in good condition. Describe measures that prevent or minimize contact with storm water. The facility must consider indoor storage, installation of berming and diking around the area, and/or other equivalent measures to prevent runon and runoff of storm water.

(iii) Buffing/Shaving Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff with leather dust from buffing/shaving areas. The facility may consider dust collection enclosures, preventive inspection/maintenance programs or other appropriate preventive measures.

(iv) Receiving, Unloading, and Storage Areas—The plan must describe measures that prevent or minimize contamination of the storm water runoff from receiving, unloading, and storage areas. Exposed receiving, unloading and storage areas for hides and chemical supplies should be protected by a suitable cover, diversion of drainage to the process sewer, grade berming or curbing area to prevent runon of storm water or other appropriate preventive measures. Materials must be plainly labelled and maintained in good condition.

(v) Outdoor Storage of Contaminated Equipment—The plan must describe measures that minimize contact of storm water with contaminated equipment. Equipment should be protected by suitable cover, diversion of drainage to the process sewer, thorough cleaning prior to storage or other appropriate preventive measures.

(vi) Waste Management—The plan must describe measures that prevent contamination of the storm water runoff from waste storage areas. The facility may consider inspection/maintenance programs or other equivalent measures for leaking containers or spills, covering dumpsters, moving waste management activities indoors, covering waste piles with temporary covering material such as tarpaulins or polyethylene, and minimizing storm water runon by enclosing the area or building berms around the area.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points

shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at least on a quarterly basis. The following areas shall be included in all inspections: leather processing areas, storage areas for chemicals, including but not limited to above ground tanks, fueling areas, vehicle and equipment maintenance areas, material storage areas, loading and unloading areas, waste management areas and other potential sources of pollution for evidence of actual or potential discharges of contaminated storm water. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections and that the pollution prevention plan is appropriately modified. Records of inspections shall be maintained as part of the pollution prevention plan.

Qualified personnel are required to conduct quarterly inspections of all Best Management Practices (BMPs). The inspections shall include an assessment of the effectiveness and need for maintenance of storm water roofing and covers, dikes and curbs, discharge diversions, sediment control and collection systems and all other BMPs.

Quarterly inspections must be made at least once in each of the following designated periods during daylight hours: January through March (storm water runoff or snow melt), April through June (storm water runoff), July through September (storm water runoff), and October through December (snow melt runoff). Records shall be maintained as part of the pollution prevention plan.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. The pollution prevention plan shall identify how often training will take place, but in all cases, training must be held at least annually. Employee training must, at a minimum, address the following areas when applicable to a facility: general good housekeeping practices, spill prevention and control, waste management, inspections, preventive maintenance, detection of non-storm water discharges and other areas.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as leaks, spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. The plan must address spills, monitoring, and BMP inspection and maintenance activities. BMPs which were ineffective must be reported and the date of their corrective action recorded. Employees must report incidents of leaking fluids to facility management and these reports must be incorporated into the plan.

(g) Non-storm Water Discharges.

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.Z.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.Z.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures or equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices. In addition, the permittee must describe the storm water pollutant source area or activity (e.g., storage areas, loading and unloading areas,

above ground storage of chemicals) to be controlled by each storm water management practice.

The plan must consider management practices, such as berms for uncovered storage areas, uncovered loading and unloading areas, above ground liquid storage and waste management areas. The installation of detention ponds must also be considered.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.Z.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.Z.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.Z.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) The storm water pollution prevention plan must describe the scope and content of comprehensive site inspections that qualified personnel will conduct to (1) Confirm the accuracy of the description of potential pollution sources contained in the plan, (2) determine the effectiveness of the plan, and (3) assess compliance with the terms and conditions of the permit. Comprehensive site compliance evaluations must be conducted at least once a year. The individual or individuals who will conduct the inspections must be identified in the plan and should be members of the pollution prevention team. Evaluation reports must be retained for at least 3 years from the date of the evaluation.

(e) Where compliance evaluation schedules overlap with inspections required under XI.Z.3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations. There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

5. Monitoring and Reporting Requirements.

(a) Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated period [described in *(1)* below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for entire permit term.

(3) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the observation data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(6) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

AA. Storm Water Discharges Associated With Industrial Activity From Fabricated Metal Products Industry

1. Discharges Covered Under This Section. The requirements listed under this section shall apply to storm water discharges associated with industrial activity from the fabricated metals industry listed below, except for electrical related industries: fabricated metal products, except machinery & transportation equipment, SIC 34 (3429, 3441, 3442, 3443, 3444, 3451, 3452, 3462, 3471, 3479, 3494, 3496, 3499); and jewelry, silverware, and plated ware (SIC Code 391).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions.

a. Prohibition of Non-storm Water Discharges.

(1) This permit does not authorize the discharge of process wastewater. Certain non-storm discharges identified in Part III.A.2. are authorized under this permit.

3. Storm Water Pollution Prevention Plan Requirements.

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all industrial activities and significant materials which may potentially be significant pollutant sources. Each plan shall specifically identify the physical features of the facility that may contribute to storm water runoff. Each plan shall include, at a minimum:

(a) Drainage

(i) A site map indicating the outfall locations and types of discharges contained in the drainage areas of the outfalls, an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part IX.AA.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: raw metal storage areas, finished metal storage areas, scrap disposal collection sites, equipment storage areas, retention and detention basins, temporary diversion dikes or berms, permanent diversion dikes or berms, right-of-way or perimeter diversion devices, any sediment traps or barriers, vehicle and equipment maintenance and/or cleaning areas,loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas including outside painting areas, wood preparation, recycling and raw material storage.

(ii) For each area of the facilities that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. In addition, flows with a significant potential for causing erosion shall be identified such as heavy equipment use areas, drainage from roofs, parking lots, etc.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Significant spills that should be considered for the fabricated metals industry include, but are not limited to, chromium, toluene, pickle liquor, sulfuric acid, zinc and other water priority chemicals and hazardous chemicals and wastes. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations for paints, chemicals and raw materials; outdoor storage activities for raw materials, paints, empty containers, corn cob, chemicals, scrap metals; outdoor manufacturing or processing

activities such as grinding, cutting, degreasing, buffing, brazing, etc; significant dust or particulate generating processes; and onsite waste disposal practices for spent solvents, sludge, pickling baths, shavings, ingots pieces, refuse and waste piles. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical or chemical oxygen demand, chromium, total suspended solids, oil and grease, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. Permittees should address the following areas in the manner described.

(i) Raw Steel Handling Storage-Include measures controlling or recovering scrap metals, fines, and iron dust, including measures for containing materials within storage handling areas.

(ii) Paints and Painting Equipment-Consider control measures to prevent or minimize exposure of paint and painting equipment from exposure to storm water.

(b) Preventive Maintenance—Preventive maintenance measures shall include timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which could contribute pollutants to storm water discharges may occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel. The following areas should be addressed:

(i) Metal Fabricating Areas-Include measures for maintaining clean, dry, orderly conditions in these areas. Use of dry clean-up techniques should be considered in the plan.

(ii) Storage Areas for Raw Metal-Include measures to keep these areas free of conditions that could cause spills or leakage of materials. Storage areas should be maintained for easy access in case spill clean up is necessary. Stored materials should be able to be identified correctly and quickly.

(iii) Receiving, Unloading, and Storage Areas-Include measures to prevent spills and leaks; plan for quick remedial clean up and instruct employees on clean-up techniques and procedures.

(iv) Storage of Equipment-Include measures for preparing equipment for storage and the proper method to store equipment including protecting with covers, storing indoors. The plan should include clean-up measures for equipment that will be stored outdoors to remove potential pollutants.

(v) Metal Working Fluid Storage Areas-The plan should include measures that identify controls particularly for storage of metal working fluids.

(vi) Cleaners and Rinse Water-The plan should include measures to control and cleanup spills of solvents and other liquid cleaners; control sand buildup and disbursement from sand-blasting operations, prevent exposure of recyclable wastes; and employ substitute cleaners when possible.

(vii) Lubricating Oil and Hydraulic Fluid Operations-Consider using devices or monitoring equipment to detect and control leaks and overflows, including the installation of perimeter controls such as dikes, curbs, grass filter strips, or other equivalent measures.

(viii) Chemical Storage Areas-Identify proper storage that prevents storm water contamination and prevents accidental spillage. The plan should include a program to inspect containers, and identify proper disposal and spill controls.

(d) Inspections—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. Metal fabricators shall at a minimum include the following areas for inspection: raw metal storage areas, finished product storage areas, material and chemical storage areas, recycling areas, loading and unloading areas, equipment storage areas, paint areas, fueling and maintenance areas, and waste management areas. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping, and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in

accordance with paragraph XI.AA.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2. (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting a notice of intent to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion. The plan shall identify structural, vegetative, and/or stabilization measures to be used to limit erosion. These shall include but not be limited to grass swales, filter strips, treatment works, or other equivalent measures. Metal fabricators must include in their plan measures to minimize erosion related to the high volume of traffic from heavy equipment for delivery to and from the facility and for equipment operating at the facility on a daily basis such as forklifts, cranes, etc.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutant(s) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activities under the SIC codes identified under paragraph XI.AA.1. of this section shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at least once a year. Such evaluations shall include:

(a) Visual inspection of areas contributing to a storm water discharge for evidence of, or the potential for, pollutants entering the drainage system. Inspection shall address areas associated with the storage of raw metals, storage of spent solvents and chemicals, outdoor paint areas, drainage from roof, unloading and loading areas, equipment storage areas, recycling areas, and retention ponds (sludge). Potential pollutants include chromium, zinc, lubricating oil, solvents, aluminum, oil and grease, methyl ethyl ketone, steel, and other related materials. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, such as detention basins and channels, gutters or drains to direct discharge flow, oil/water separators in storm drains, containment structures, concrete pads, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment and containment drums, shall be made to determine if the equipment is functioning properly and that drums are not in a corrosive or deteriorating state.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.AA.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.AA.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.AA.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the inspection. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations. There are no additional numeric effluent limitations beyond those described in Part V.B. of this permit.

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements. During the period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] and the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance], permittees with metal fabricating facilities must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Metal fabricating facilities are required to monitor their storm water discharges for the pollutants of concern listed in Tables AA–1 and AA–2 below. The monitoring requirements are subdivided into two classifications to determine pollutants of concern: (1) fabricated metal products except coating and (2) fabricated metal coating and engraving. Facilities must report in accordance with 5.b. (Reporting). In addition to the

parameters listed in Tables AA–1 and AA–2 below, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

TABLE AA–1.—MONITORING REQUIREMENTS FOR FABRICATED METAL PRODUCTS EXCEPT COATING

Pollutants of concern	Monitoring cut-off concentration
Total Recoverable Aluminum.	0.75 mg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Zinc	0.065 mg/L
Nitrate plus Nitrite Nitrogen	0.68 mg/L

TABLE AA–2.—MONITORING REQUIREMENTS FOR FABRICATED METAL COATING AND ENGRAVING

Pollutants of concern	Monitoring cut-off concentration
Total Recoverable Zinc	0.065 mg/L
Nitrate plus Nitrite Nitrogen	0.068 mg/L

(1) Monitoring Periods. Metal fabricating facilities shall monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph a. (above).

(2) Sample Type. A minimum of one grab sample shall be taken. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If storm water discharges associated with industrial activity commingle with process or nonprocess water, then where practicable permittees must attempt to sample the storm water discharge before it mixes with the non-storm water discharge.

(3) Sampling Waiver

(a) Adverse Conditions—When a discharger is unable to collect samples within a specified sampling period due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit the data along with data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(b) Low Concentration Waiver—When the average concentration for a pollutant calculated from all monitoring data collected from an outfall during the monitoring period [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] is less than the corresponding value for that pollutants listed in Tables AA–1 and AA–2 under the column Monitoring Cut-off Concentration, a facility may waive monitoring and reporting requirements in the monitoring period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance]. The facility must submit to the Director, in lieu of the monitoring data, a certification that there has not been a significant change in industrial activity or the pollution prevention measures in areas of the facility which drain to the outfall for which sampling was waived.

(c) When a discharger is unable to conduct quarterly chemical storm water sampling at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The facility must submit to the Director, in lieu of monitoring data, a certification statement on the DMR stating that the site is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

(4) Representative Discharge. When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan. The permittee shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report.

(5) Alternative Certification. A discharger is not subject to the monitoring requirements of this section provided the discharger makes a certification for a given outfall or on a pollutant-by-pollutant basis in lieu of monitoring reports required under paragraph *b* below, under penalty of law, signed in accordance with Part VII.G. (Signatory Requirements), that material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, industrial machinery or operations, or significant materials from past industrial activity that are located in areas of the facility within the drainage area of the outfall are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Such certification must be retained in the storm water pollution prevention plan, and submitted to EPA in accordance with Part VI.C. of this permit. In the case of certifying that a pollutant is not present, the permittee must submit the certification along with the monitoring reports required under paragraph *(b)* below. If the permittee cannot certify for an entire period, they must submit the date exposure was eliminated and any monitoring required up until that date. This certification option is not applicable to compliance

monitoring requirements associated with effluent limitations.

b. Reporting. Permittees with metal fabricating and engraving facilities shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the reporting period beginning [insert date 1 year after permit issuance] lasting through [insert date 2 years after permit issuance] on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March [insert the date 2 years after permit issuance]. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning [insert date 3 years after permit issuance] lasting through [insert date 4 years after permit issuance] shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the following March. For each outfall, one signed Discharge Monitoring Report form must be submitted to the Director per storm event sampled. Signed copies of Discharge Monitoring Reports, or said certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office listed in Part VI.G. of the fact sheet.

(1) Additional Notification. In addition to filing copies of discharge monitoring reports in accordance with paragraph b (above), metal fabricating facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph b (above).

c. Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated period [described in paragraph (1) below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snowmelt: January through March; April through June; July through September; and October through December.

(2) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term.

(3) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(4) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(5) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(6) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

AB. Storm Water Discharges Associated With Industrial Activity From Facilities That Manufacture Transportation Equipment, Industrial, or Commercial Machinery

1. Discharges Covered Under This Section

a. The requirements listed under this section shall apply to storm water discharges associated with transportation equipment, industrial or commercial machinery manufacturing facilities (commonly described by SIC Major Group 35 except SIC 357, and SIC Major Group 37, except SIC 373). Common activities include: industrial plant yards; material handling sites; refuse sites; sites used for application or disposal of process wastewaters; sites used for storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas for raw material and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all

applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Prohibition of Non-storm Water Discharges. There are no additional requirements other than those in Part III. of the permit.

3. Storm Water Pollution Prevention Plan Requirements

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify the specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage

(i) A site map indicating the pattern of storm water drainage, existing structural control measures to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, and locations where major spills or leaks identified under Part XI.AB.3.a.(2)(c) (Spills and Leaks) of this permit have occurred since 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. The map must also indicate the locations of all industrial activities that are exposed to precipitation, including, but not limited to: loading/unloading areas; waste treatment; storage and disposal locations; liquid storage tanks; vents and stacks from metal processing and similar operations; significant dust or particulate generating areas; and any other processing and storage areas exposed to storm water. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for contacting significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants that are likely to present in storm water discharges associated with industrial activity must be identified. Factors to consider include the toxicity of a chemical; quantity of chemicals used, produced, or discharged; the likelihood of contract with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Section 311 of CWA (see 40 CFR 110.10 and 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see 40 CFR 302.4). Significant spills may also include releases of oil or hazardous substances that are not excess of reporting requirements and releases of materials that are not classified as oil or hazardous substance. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; significant dust or particulate generating processing activities; and onsite waste disposal. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., oil and grease, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm waters discharges in a clean, orderly manner. Areas where good housekeeping practices should be implemented are storage areas for raw materials, waste materials and finished products; loading/unloading areas; and waste disposal areas for hazardous and nonhazardous wastes. Examples of good housekeeping measures include sweeping; labelling drums containing hazardous materials; and preventive monitoring practices (e.g., routine observation of manufacturing processes) or equivalent measures.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and

ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Areas to be identified should include loading/unloading areas, outdoor storage areas, and waste management areas exposed to storm water. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility on a periodic basis. At a minimum, the following areas, where the potential for exposure to storm water exists, must be inspected on a regularly scheduled basis: loading and unloading areas for all significant materials; storage areas, including associated containment areas; waste management units; and vents and stacks from industrial activities. For any problems identified during inspections, the plan shall be revised to include measures to address these problems. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping, material management practices, unloading/loading practices, outdoor storage areas, waste management practices, proper handling procedures of hazardous waste, and improper connections to the storm sewer. At a minimum, this training should be provided annually. The pollution prevention plan shall identify frequencies and approximate dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. Ineffective BMPs should be reported and the date of their corrective actions noted.

(g) Non-storm Water Discharges

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges as identified in Part III.A.2. of this permit. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with Part XI.AB.3.a.(3)(g)(iv) (Failure to Certify) of this permit.

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A. (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) If the facility discharges wastewater, other than storm water via an existing NPDES permit, a copy of the NPDES permit authorizing the discharge must be attached to the plan. Similarly, if the facility submitted an application for an NPDES permit for non-storm water discharges, but has not yet received that permit, a copy of the permit application must be attached. Upon issuance or reissuance of an NPDES permit, the facility must modify its plan to include a copy of that permit. For facilities that discharge wastewater, other than solely domestic wastewater, to a Publicly Owned Treatment Works (POTW), the facility must notify the POTW of its discharge. Proof of this notification should be attached to the plan in the form of either (1) a copy of the permit issued by the treatment plant to the facility or (2) a copy of a notification letter to the POTW. Notification should identify, in general, the types of wastewater discharged to the POTW, including any storm water discharges. In any of these cases, specific permit conditions must be considered in the plan.

(iv) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see paragraph XI.AB.3.a.(2) (Description of

Potential Pollutant Sources) of this permit) shall be considered when determining reasonable and appropriate measures. Appropriate measures or other equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices. In addition, the permittee must describe the storm water pollutant source area or activity (storage areas, loading/unloading) to be controlled by each storm water management practice.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with Part XI.AB.3.a.(2) (Description of Potential Pollutant Sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.AB.3.a.(3) (Measures and Controls) of this permit shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the evaluation, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.AB.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations. There are no additional numeric limitations beyond those described in Part V.B of this permit.

5. Monitoring and Reporting Requirements.

a. Monitoring Requirements.

(1) Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated period [described in (*a*), below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(a) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(b) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable the same individual will carry out the collection and examination of discharges for the life of the permit.

(c) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(d) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

(e) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(f) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

AC. Storm Water Discharges Associated With Industrial Activity From Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods

1. Discharges Covered Under This Section. The requirements listed under this section shall apply to all storm water discharges associated with industrial activity from facilities that manufacture: electronic and other electrical equipment and components, except computer equipment (SIC major group 36); measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks (SIC major group 38) and computer and office equipment (SIC code 357).

When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. Special Conditions.

a. Prohibition of Non-storm Water Discharges. Other than as provided in use this Section III.A. of this permit, non-storm water discharges are not authorized by this permit.

3. Storm Water Pollution Prevention Plan Requirements.

a. Contents of Plan. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) Drainage

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.AC.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) Inventory of Exposed Materials—An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) Spills and Leaks—A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) Sampling Data—A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) Risk Identification and Summary of Potential Pollutant Sources—A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

(3) Measures and Controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) Good Housekeeping—Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner.

(b) Preventive Maintenance—A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/

water separators; catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) Spill Prevention and Response Procedures—Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) Inspections—In addition to or as part of the comprehensive site evaluation required under paragraph XI.AC.3.a.(4) of this section, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) Employee Training—Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) Recordkeeping and Internal Reporting Procedures—A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) Non-storm Water Discharges

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.AC.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) Failure to Certify—Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director by [Insert date 270 days after permit issuance] or, for facilities which begin to discharge storm water associated with industrial activity after [Insert date 270 days after permit issuance], 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) Sediment and Erosion Control—The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) Management of Runoff—The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.AC.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures or equivalent measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(4) Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.AC.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in

accordance with paragraph XI.AC.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the inspection, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.AC.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. Numeric Effluent Limitations. There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

5. Monitoring and Reporting Requirements

a. Monitoring Requirements

(1) Quarterly Visual Examination of Storm Water Quality. Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated period [described in (*a*), below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(a) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(b) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Whenever practicable the same individual will carry out the collection and examination of discharges for the life of the permit.

(c) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(d) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the observation data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(e) When a discharger is unable to collect samples over the course of the monitoring period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(f) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

XII. Coverage Under This Permit

Region III

A. Federal Facilities in the District of Columbia (DCR05##F)*

District of Columbia 401 certification special permit conditions revise the permit as follows:

1. Part IV section B is amended by the addition of the following:

Part IV. Storm Water Pollution Prevention Plans

* * * * *

B. Signature and Plan Review

* * * * *

4. Review and Approval by Department of Consumer and Regulatory Affairs

A copy of all storm water pollution prevention plans required under the permit shall be submitted to the District of Columbia's Department of Consumer and Regulatory Affairs, Environmental Regulation Administration, for review and approval.

2. Part IV section E is amended by the addition of the following:

Part IV. Storm Water Pollution Prevention Plans

* * * * *

E. Special Pollution Prevention Plan Requirements

* * * * *

5. Nitrogen, Phosphorus, Fertilizer, Pesticides and Urea Loadings and Usages

Permittees shall include in the storm water pollution prevention plan current nitrogen and phosphorus loads, current fertilizer usage, current exterior pesticide usage, and current urea for deicing usage.

6. Storm Water and Ground Water Diversions to Sanitary Sewers

Permittees shall include in the storm water pollution prevention plan the volume of any storm water diverted to the sanitary sewer from roof leaders or other connections and the volume any ground water diverted to the sanitary sewer.

7. Proposed Reductions in Nutrient and Pesticide Loads

Permittees shall include in the storm water pollution prevention plan the proposed reductions in nutrient and pesticides loads in accordance with the Chesapeake Bay Restoration goals.

8. Animal Waste Management Plans

Any permittee that manages significant quantities of animals or animal wastes, shall provide in the storm water pollution prevention plan an accounting of these animal wastes, and nutrient control measures for avoiding, reducing, or eliminating runoff of these animal wastes.

B. District of Columbia (DCR05###)*

District of Columbia 401 certification special permit conditions revise the permit as follows:

1. Part IV section B is amended by the addition of the following:

Part IV. Storm Water Pollution Prevention Plans

* * * * *

B. Signature and Plan Review

* * * * *

4. Review and Approval by Department of Consumer and Regulatory Affairs

A copy of all storm water management plans required under the permit shall be submitted to the District of Columbia's Department of Consumer and Regulatory Affairs, Environmental Regulation Administration, for review and approval.

Region VI

C. Louisiana (LAR05###)*

Louisiana 401 certification and Coastal Zone special permit conditions revise the permit as follows:

1. Part I section B. is amended by the addition of the following:

Part I. Coverage Under This Permit

B. Eligibility

* * * * *

6. Discharges Subject to Louisiana Coastal Zone Management Program

Facilities whose activities occur in, or have an effect on, the designated coastal zone of Louisiana, shall have obtained an individual coastal zone consistency concurrence, permit, or waiver from the Coastal Management Division of the Louisiana Department of Natural Resources (in accordance with the Louisiana Coastal Zone Management Program LRS 49:214). Facilities wishing to obtain a description of the areas designated by the State of Louisiana as the "coastal zone" should request that information by writing to: State of Louisiana, Department of Natural Resources, Coastal Zone Management Division, P.O. Box 44487, Baton Rouge, Louisiana 70804-4487.

2. The following section is added to Part V of the Permit:

Part V. Numeric Effluent Limitations

* * * * *

c. *Limitations for all discharges of storm water associated with industrial activity.*

(1) General Limitations: Effective [insert effective date of permit].

Parameter	Daily maximum
Total Organic Carbon (TOC)	50 mg/l
Oil & Grease	15 mg/l

(2) Oil & Gas Exploration and Production Facilities: Effective on effective date of permit.

Parameter	Daily maximum
Chemical Oxygen Demand (COD)	100 mg/l
Total Organic Carbon (TOC)	50 mg/l
Oil & Grease	15 mg/l

Chlorides:

(a) Maximum chloride concentration of the discharge shall not exceed two times the ambient concentration of the receiving water in brackish marsh areas.

(b) Maximum chloride concentration of the discharge shall not exceed 500 mg/l in freshwater or intermediate marsh areas and upland areas.

Facilities without monitoring requirements must insure the pollution prevention plan developed in accordance with Part IV will insure compliance with these effluent limitations.

* * * * *

3. The following definitions are added to Part X of the permit:

Part X. Definitions

"Brackish Marshes"—those areas that are inundated or saturated by surface water or groundwater of moderate salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes wiregrass (*Spartina patens*), three-cornered grass (*Scirpus olneyi*), coco (*Scirpus robustus*), and widgeongrass (*Ruppia maritima*). Interstitial water salinity normally ranges between 7 and 15 parts per thousand. (LAC 33:IX.708)

"Freshwater Swamps and Marshes"—those areas that are inundated or saturated by surface water or groundwater of negligible to very low salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes maiden cane (*Panicum hemitomon*), *Hydrocotyl sp.*, water hyacinth (*Eichhornia crassipes*), pickerelweed (*Pontederia cordata*), alligatorweed (*Alternanthera philoxeroides*), and bulltongue (*Sagittaria sp.*). Interstitial water salinity is normally less than 2 parts per thousand. (LAC 33:IX.708)

"Intermediate Marshes"—those areas that are inundated or saturated by surface water or groundwater of salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes wiregrass (*Spartina patens*), deer pea (*Vigna repens*), bulltongue (*Sagittaria sp.*), wild millet (*Echinochloa walteri*), bullwhip (*Scirpus californicus*), and sawgrass (*Cladium jamaicense*). Interstitial water salinity normally ranges between 3 and 6 parts per thousand. (LAC 33:IX.708)

"Saline Marshes"—those wetland areas that are inundated or saturated by surface water or groundwater of salinity characteristic of near Gulf of Mexico ambient water at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes oystergrass (*Spartina alterniflora*), glasswort (*Salicornia sp.*), black rush (*Juncus roemericanus*), *Batis maritima*, black mangrove (*Avicennia nitida*), and saltgrass (*Distichlis spicata*). Interstitial water salinity normally exceeds 16 parts per thousand. (LAC 33:IX.708)

"Upland"—any land area that is not normally inundated with water and that would not, under normal circumstances, be characterized as swamp or fresh, intermediate, brackish, or saline marsh. The term shall have both a regional and site-specific connotation; for example, naturally occurring and man-made topographic highs that are partially or totally surrounded by swamp, marsh, or open water will be considered upland on a local basis, but will not necessitate characterization of the surrounding area as upland. The land and water bottoms of all parishes north of the nine parishes contiguous with the Gulf of Mexico shall be determined on a case-by-case basis with reference to the presences of a regional expanse of emergent aquatic vegetation or open water. (LAC 33:IX.708)

D. New Mexico (NMR05###)*

New Mexico 401 certification special permit conditions revise the permit as follows:

1. Part VI.B of the permit is revised to read:

Part VI. Monitoring and Reporting Requirements

* * * * *

B. *Reporting: Where to Submit.*

* * * * *

3. *Location.* Signed copies of discharge monitoring reports required under Parts XI. and VI.C., individual permit applications, and all other reports required herein, shall be submitted to the appropriate state office address:

New Mexico

Program Manager, Point Source Regulation Section, Surface Water Quality Bureau, New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, New Mexico 87504-0968

2. Part XI of the permit is revised to include the following additional monitoring for the industrial sectors indicated:

Part XI.

A. Storm Water Discharges Associated With Industrial Activity From Timber Products Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Tables A–1,2,3,4 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

(1) Sawmill & planing facilities: shall monitor Biochemical Oxygen Demand (BOD), Nitrate + Nitrite (NO_3+NO_2), Ammonia (NH_3) and Total Kjeldahl Nitrogen (TKN);
(2) Wood preserving facilities: shall monitor Total Suspended Solids (TSS), NO_3+NO_2, NH_3 and TKN;
(3) Log storage & handling facilities: shall monitor Chemical Oxygen Demand (COD), NO_3+NO_2, NH_3 and TKN;
(4) Other wood products: shall monitor BOD, NO_3+NO_2, TKN, NH_3 and oil & grease.

* * * * *

B. Storm Water Discharges Associated With Industrial Activity From Paper And Allied Products Manufacturing Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Table B–1 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

(1) Paperboard mills: shall monitor TSS, BOD, NO_3+NO_2, and TKN;
(2) Paperboard containers & boxes: shall monitor COD, NO_3+NO_2, NH_3, and TKN;
(3) Converted paper & paperboard products: shall monitor COD, NO_3+NO_2, NH_3, and TKN.

* * * * *

C. Storm Water Discharges Associated With Industrial Activity From Chemical and Allied Products Manufacturing Facilities

* * * * *

6. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Tables C–2,3,4,5 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

(1) Agricultural chemical: shall monitor total mercury (Hg), TSS, NH_3, and TKN;
(2) Inorganic chemical: shall monitor total Hg, NH_3, and TKN;
(3) Detergents, cosmetics & perfumes: shall monitor COD, TKN, NH_3, and TSS;
(4) Paints, varnishes, enamels & allied products: shall monitor TSS, NH_3, NO_3+NO_2, and TKN.
(5) Plastics, synthetics, and resins: shall monitor total Hg, NO_3+NO_2, NH_3, and TKN.

* * * * *

D. Storm Water Discharges Associated With Industrial Activity From Asphalt Paving and Roofing Materials and Lubricant Manufacturers

* * * * *

5. Monitoring and Reporting Requirements.

(a) * * * In addition to the parameters listed in Table D–1 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

Asphalt paving & roofing materials: shall monitor COD, NO_3+NO_2, NH_3, and TKN.

E. Storm Water Discharges Associated With Industrial Activity From Glass, Clay, Cement, Concrete, Gypsum Product Manufacturing Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Tables E–1,2 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

(1) Clay product manufactures: shall monitor TSS;
(2) Concrete & gypsum product manufactures: shall monitor TKN, NH_3, and NO_3+NO_2;
(3) Flat glass, glass & glassware, pressed or blown glass products: shall monitor TKN, NH_3, and NO_3+NO_2.

* * * * *

F. Storm Water Discharges Associated With Industrial Activity From Primary Metals Facilities.

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Tables F–1, 2, 3, 4 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

(1) Steel works: shall monitor total Hg, TKN, NO_3+NO_2, NH_3, and TSS;
(2) Iron & steel foundries: shall monitor total Hg, COD, NO_3+NO_2, NH_3, and TKN;
(3) Rolling, drawing & extruding—non-ferrous: shall monitor total Hg, NO_3+NO_2, NH_3, and TKN;
(4) Non-ferrous foundries: shall monitor total Hg, TSS, NO_3+NO_2, NH_3, and TKN.

* * * * *

G. Storm Water Discharges Associated With Industrial Activity From Metal Mining (Ore Mining and Dressing) Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Table G–1 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per

year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

All metal mining facilities shall monitor for COD, TSS, NO_3+NO_2, TKN, NH_3, total Hg; in addition, all permittees in the SIC code for metals mining shall monitor for any heavy metal which the permittee has reason to believe may be present in storm water runoff from the mining facility.

* * * * *

I. Storm Water Discharges Associated With Industrial Activity From Oil and Gas Extraction Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) All facilities in this sector shall conduct analytical monitoring for oil and grease; total phosphorus; and total suspended solids (TSS). The data shall be reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

* * * * *

J. Storm Water Discharges Associated With Industrial Activity From Mineral Mining and Processing Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Table J–1 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

Sand & gravel mining facilities: shall monitor TKN and NH_3.

* * * * *

K. Storm Water Discharges Associated With Industrial Activity From Hazardous Waste Treatment, Storage, or Disposal Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Table K–1 all facilities shall monitor TKN, NO_3+NO_2, and TSS and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

* * * * *

L. Storm Water Discharges Associated With Industrial Activity From LandFills and Land Application Sites

5. Monitoring and Reporting Requirements.

(a) * * * In addition to the parameters listed in Table L–1 all facilities shall monitor TKN, NH_3, and NO_3+NO_2 and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

* * * * *

M. Storm Water Discharges Associated With Industrial Activity From Automobile Salvage Yards

* * * * *

4. Monitoring and Reporting Requirements.

(a) * * * In addition to the parameters listed in Table M–1 all facilities shall monitor oil & grease, NO_3+NO_2, NH_3, and TKN and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

* * * * *

N. Storm Water Discharges Associated With Industrial Activity From Scrap Recycling and Waste Recycling Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Table N–1 all facilities shall monitor oil & grease, NO_3+NO_2, NH_3, and TKN and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

* * * * *

O. Storm Water Discharges Associated With Industrial Activity From Steam Electric Power Generating Facilities, Including Coal Handling Areas

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Table O–1 all facilities shall monitor TSS, NO_3+NO_2, TKN, NH_3, and total Zinc (Zn) and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

* * * * *

P. Storm Water Discharges Associated With Industrial Activity From Motor Freight Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and United States Postal Service Transportation Facilities

* * * * *

4. Monitoring and Reporting Requirements

(a) The following facilities shall conduct analytical monitoring of the parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

(1) Railroad transportation: shall monitor COD, NO_3+NO_2, TKN, NH_3, TSS, total Zn, and oil & grease;

(2) Local & highway passenger transportation: shall monitor NO_3+NO_2, NH_3, oil & grease, TSS, and TKN;
(3) Motor freight transportation & warehousing: shall monitor NO_3+NO_2, NH_3, TSS, total Zn, TKN, and oil & grease;
(4) U.S. Postal Service: shall monitor total Zn;
(5) Petroleum bulk stations: shall monitor TKN, NO_3+NO_2, NH_3, and TSS.

* * * * *

Q. Storm Water Discharges Associated With Industrial Activity From Water Transportation Facilities That Have Vehicle Maintenance Shops and/or Equipment Cleaning Operations

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Table Q–1 all facilities shall monitor TSS, NO_3+NO_2, NH_3, and TKN and the data reported to the New Mexico State Program Manager at the address above (Part VI.B.). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

* * * * *

S. Storm Water Discharges Associated With Industrial Activity From Vehicle Maintenance Areas, Equipment Cleaning Areas, or Deicing Areas Located at Air Transportation Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Table S–1 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B.). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

(1) Vehicle maintenance and/or cleaning areas: shall monitor oil & grease, COD, TSS;

* * * * *

(b) Quarterly Visual Examination of Storm Water Quality. Storm water discharge from vehicle maintenance, cleaning or deicing areas shall be visually examined once each quarter as specified below. These facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) must be made at least once in each of the following 3-month periods: January through March, April through June, July through September, and October through December. The examination shall be made during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(1) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed 1 hour) of when the runoff or snow melt begins discharging. The examination shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term.

(2) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(3) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(4) When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(5) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

* * * * *

T. Storm Water Discharges Associated With Industrial Activity From Treatment Works.

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the visual monitoring, all facilities shall conduct analytical monitoring of BOD, NO_3+NO_2, TKN, NH_3, TSS, and fecal coliform, and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

* * * * *

U. Storm Water Discharges Associated With Industrial Activity From Food and Kindred Products Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Table U–1,2 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

(1) Grain mill products: shall monitor COD, total Zn, TKN, NO_3+NO_2, NH_3, and total phosphorus;
(2) Fats and oils products: shall monitor TKN and NH_3;
(3) Dairy products: shall monitor BOD, COD, NO_3+NO_2, TKN, NH_3, and TSS;
(4) Meat products: shall monitor NO_3+NO_2, TKN, and TSS;

(5) Canned, frozen & preserved fruits: shall monitor NO_3+NO_2, NH_3, COD, and TKN;
(6) Bakery products: shall monitor TKN, NO_3+NO_2, NH_3, and TSS;
(7) Beverage facilities: shall monitor total Zn;
(8) Miscellaneous: shall monitor TKN, NO_3+NO_2, NH_3, and TSS.

* * * * *

W. Storm Water Discharges Associated With Industrial Activity From Wood and Metal Furniture and Fixture Manufacturing Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) All facilities shall conduct analytical monitoring of NO_3+NO_2, TKN, NH_3, TSS and total Zn, and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

* * * * *

Y. Storm Water Discharges Associated With Industrial Activity From Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Table Y–1 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

(1) Rubber products manufacturing: shall monitor TSS, TKN, NO_3+NO_2, NH_3, and total Hg;
(2) Miscellaneous plastics products: shall monitor NO_3+NO_2, NH_3, TKN, TSS, and total Hg.

* * * * *

Z. Storm Water Discharges Associated With Industrial Activity From Leather Tanning and Finishing Facilities

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the visual monitoring, all facilities shall conduct analytical monitoring of COD, NO_3+NO_2, TKN, NH_3, and TSS, and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

* * * * *

AA. Storm Water Discharges Associated With Industrial Activity From Fabricated Metal Products Industry

* * * * *

5. Monitoring and Reporting Requirements

(a) * * * In addition to the parameters listed in Table AA–1,2 the following facilities shall conduct monitoring of the additional parameters indicated and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

(1) Metal products except coating: shall monitor TKN, NH3, and TSS;
(2) Metal coating & engraving: shall monitor TKN, and NH3.

* * * * *

AC. Storm Water Discharges Associated With Industrial Activity From Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods

* * * * *

5. Monitoring and Reporting Requirements

(a) All facilities shall conduct analytical monitoring of total Aluminum (Al), total Zn and total Hg, and the data reported to the New Mexico State Program Manager at the address above (Part VI.B). A copy of the data shall be kept with the Pollution Prevention Plan. Monitoring for the additional parameters indicated shall be conducted at least quarterly (4 times per year) in the second and fourth year of the permit. The first period of monitoring to begin on the date one year following the date of issuance of this permit. Each year of monitoring (four quarters) shall be reported no later than the following March. The report to NMED shall be postmarked no later that the 31st day of the following March.

In addition to the above-referenced conditions, per 40 CFR 122.44(d)(6) to ensure consistency with work element 6 of the State-adopted Water Quality Management Plan (WQMP) approved by EPA under Section 208(b) of the CWA, NMED is requiring that all permittees covered under this general permit, who are required to do sampling, be additionally required to monitor and report pH.

* * * * *

E. Oklahoma (OKR05###)*

Oklahoma 401 certification special permit conditions revise the permit as follows:

Part I.B.3. Limitations on Coverage. Insert the following paragraph:

f. Discharges to Oklahoma Outstanding Resource Waters and Scenic Rivers. "New" point source discharges of storm water associated with industrial activity (those commencing after the June 25, 1992, effective date of the Oklahoma Water Quality Standards—Oklahoma Annotated Code Title 785, Chapter 45) to the following waters:

(1) waterbodies designated as "Outstanding Resource Waters" and/or "Scenic Rivers" in Appendix A of the Oklahoma Water Quality Standards;

(2) Oklahoma waterbodies located within the watersheds of waterbodies designated as "Scenic Rivers" in Appendix A of the Oklahoma Water Quality Standards; and

(3) waterbodies located within the boundaries of Oklahoma Water Quality Standards Appendix B areas which are specifically designated as "Outstanding Resource Waters" in Appendix A of the Oklahoma Water Quality Standards.

D. Texas (TXR05###)*

Texas 401 certification special permit conditions revise the permit as follows:

The following sections are added to Part V of the permit:

Part V. Numeric Effluent Limitations

* * * * *

C. All Discharges to Inland Waters

The maximum allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharges to inland waters are as follows:

Total metal	Monthly average	Daily composite	Single grab
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0

Total metal	Monthly average	Daily composite	Single grab
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

C. All Discharges to Tidal Waters

The maximum allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharges to tidal waters are as follows:

Total metal	Monthly average	Daily composite	Single grab
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.1	0.2	0.3
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.10	0.2	0.3
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

2. The following section is added to Part VI. of the permit:

* * * * *

D. *Toxicity Testing.* All facilities that have demonstrated significant lethality, which has not been controlled, shall continue to perform WET testing in accordance with the requirements below. Permittees that are required to monitor for acute whole effluent toxicity shall initiate the series of tests described below within 180 days after the issuance of this permit or within 90 days after the commencement of a new discharge.

The permittee shall test the effluent for lethality in accordance with the provisions of this section. Such testing will determine if an effluent sample meets the Texas Surface Water Quality Standard listed at 31 TAC § 307.6(e)(2)(B) of greater than 50% survival of the appropriate test organisms in 100% effluent for a 24-hour period.

1. Test Procedures

a. The permittee shall conduct acute 24 . hour static toxicity tests on both an appropriate invertebrate and an appropriate fish (vertebrate) test species (EPA/600/4–90–027 Rev. 9/91, Section 6.1.). Freshwater species must be used for discharges to freshwater water bodies. Due to the non-saline nature of rainwater, freshwater test species should also be used for discharges to estuarine, marine or other naturally saline waterbodies.

The following tests shall be used:

1. Acute static 24-hour definitive toxicity test using *Daphnia pulex*. A minimum of four (4) replicates with a minimum of five (5) organisms per replicate shall be used for this test.

2. Acute static 24-hour definitive toxicity test using fathead minnow (*Pimephales promelas*). A minimum of four (4) replicates with a minimum of ten (10) organisms per replicate shall be used for this test.

b. Five dilutions in addition to an appropriate control (0% effluent), shall be used in the toxicity tests. These effluent concentrations shall be 6%, 13%, 25%, 50% and 100%. The control and/or dilution water shall consist of a standard, synthetic, moderately hard, reconstituted water. If more than 10% of the test organisms in any control die, that test, including the control and all effluent dilution(s), shall be repeated, with all results from *both* tests reported.

c. All test organisms, procedures and quality assurance criteria used shall be in accordance with *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, EPA/600/4–90–027 (Rev. September 1991). EPA has proposed to establish regulations regarding these test methods (December 4, 1989, 53 *FR* 50216).

d. Tests shall be conducted semiannually (twice per year) on a grab sample of the discharge at 100% strength (no dilution), the dilutions specified in paragraph b. above, and a control consisting of either receiving water or synthetic dilution water. Results of all tests conducted with any species shall be reported according to EPA/600/4–90–027 (Rev. September 1991), Section 12, Report Preparation, and the report retained onsite. The test results shall be summarized in the format used on Table VI–A and submitted to EPA with the Discharge Monitoring Reports (DMR's). On the DMR, the permittee shall report test results in accordance with the instructions on Table VI–A.

* * * * *

2. The following sections are added to Part V of the permit:

Part V. Numeric Effluent Limitations

* * * * *

B. All Discharges to Inland Waters

The maximum allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharges to inland waters are as follows:

Total metal	Monthly average	Daily composite	Single grab
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0

Total metal	Monthly average	Daily composite	Single grab
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

C. All Discharges to Tidal Waters

The maximum allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharges to tidal waters are as follows:

Total metal	Monthly average	Daily composite	Single grab
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.1	0.2	0.3
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.10	0.2	0.3
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

3. The following definitions are added to Part X of the permit:

Part X. Definitions

"Inland Waters"—all surface waters in the State other than "tidal waters" as defined below.

"Tidal Waters"—those waters of the Gulf of Mexico within the jurisdiction of the State of Texas, bays and estuaries thereto, and those portions of the river systems which are subject to the ebb and flow of the tides, and to the intrusion of marine waters.

Region IX

Arizona (AZR05###) and Federal Facilities in Arizona (AZR05*##F)*

Arizona 401 certification special permit conditions revise the permit as follows:

1. Part I section B is amended by the addition of the following:

Part I. Coverage Under This Permit

* * * * *

B. Eligibility

* * * * *

8. Compliance with Water Quality Standards of the State of Arizona

Discharges authorized by this permit shall not cause or contribute to a violation of any applicable water quality standard of the State of Arizona (Arizona Administrative Code, Title 18, Chapter 11).

2. The following language is added to Part II section D:

Part II. Notification Requirements

* * * * *

D. Where to Submit

Notices of Intent shall also be submitted to the State of Arizona Department of Environmental Quality at the following address: Storm Water Coordinator, Arizona Department of Environmental Quality, 3033 N. Central Avenue, Phoenix, Arizona 85012.

NOIs submitted to the State of Arizona shall include the well registration number if storm water associated with industrial activity is discharged to a dry well or an injection well.

3. The following language is added to Part IV section E.2:

Part IV. Storm Water Pollution Prevention Plans

* * * * *

E. Special Pollution Prevention Plan Requirements

* * * * *

2. *Additional Requirements for Storm Water Discharges Associated With Industrial Activity From Facilities Subject to EPCRA Section 313 Requirements*

* * * * *

e. SARA Section 313 (Community Right to Know) Facilities shall have the following requirement:

Liquid storage areas for Section 313 water priority chemicals shall be operated to minimize discharges of Section 313 chemicals. Appropriate measures to minimize discharges of Section 313 chemicals shall include secondary containment provided for at least the entire contents of the largest tank plus sufficient freeboard to allow for the *25-year, 24-hour precipitation event,* a strong spill contingency and integrity testing plan, and/or other equivalent measures.

4. Part IV. Section E is amended by the addition of the following:

Part IV. Storm Water Pollution Prevention Plans

* * * * *

E. Special Pollution Prevention Plan Requirements

* * * * *

5. Delineation of Facility Areas Below Base Elevation

All facilities with any portion of the facility that is located at or below the Base Elevation shall delineate on the site map those portions of the facility that are located at or below the Base Elevation.

5. The following language is added to Part VI section B.2:

Part VI. Monitoring and Reporting Requirements

* * * * *

B. Reporting: Where to Submit

* * * * *

2. *Additional Notification.* Facilities subject to monitoring and reporting requirements shall also submit Discharge Monitoring Report Form(s) and other required monitoring information to the State of Arizona Department of Environmental Quality at the following address: Storm

Water Coordinator/DMR, Arizona Department of Environmental Quality, 3033 N. Central Avenue, Phoenix, Arizona 85012.

6. The following is added to Part IX section B:

Part IX. Termination of Coverage

* * * * *

B. Addresses

Notices of Termination shall also be submitted to the State of Arizona Department of Environmental Quality at the following address: Storm Water Coordinator, Arizona Department of Environmental Quality, 3033 N. Central Avenue, Phoenix, Arizona 85012.

7. The following definitions are added to Part X of the permit:

Part X. Definitions

"Significant Sources of Non-Storm Water"—includes, but is not limited to discharges which could cause or contribute to violations of water quality standards of the State of Arizona, and discharges which could include releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see CFR 302.4).

"Base Elevation"—elevation of a surface waterbody having a one percent chance of being equaled or exceeded during any given year.

Region X

F. Washington (WAR05###)*

Washington 401 certification special permit conditions revise the permit as follows:

1. Part I section B is amended by the addition of the following:

Part I. Coverage Under This Permit

* * * * *

B. Eligibility

* * * * *

8. Compliance with Washington Water Quality and Sediment Standards

Discharges authorized by this permit shall not cause or contribute to a violation of any applicable water quality standard of the State of Washington, specifically Chapter 173–201A WAC Surface Water Quality Standards, Chapter 173–204 WAC Sediment Standards, and the National Toxics Rule for human health related to water quality standards.

Addendum A—Pollutants Identified in Tables II and III of Appendix D of 40 CFR Part 122

Table II.—Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)

Volatiles

1V acrolein
2V acrylonitrile
3V benzene
5V bromoform
6V carbon tetrachloride
7V chlorobenzene
8V chlorodibromomethane
9V chloroethane
10V 2-chloroethylvinyl ether
11V chloroform
12V dichlorobromomethane
14V 1,1-dichloroethane
15V 1,2-dichloroethane
16V 1,1-dichloroethylene
17V 1,2-dichloropropane
18V 1,3-dichloropropylene
19V ethylbenzene
20V methyl bromide
21V methyl chloride
22V methylene chloride
23V 1,1,2,2-tetrachloroethane
24V tetrachloroethylene
25V toluene
26V 1,2-trans-dichloroethylene
27V 1,1,1-trichloroethane
28V 1,1,2-trichloroethane
29V trichloroethylene
31V vinyl chloride

Acid Compounds

1A 2-chlorophenol
2A 2,4-dichlorophenol
3A 2,4-dimethylphenol
4A 4,6-dinitro-o-cresol
5A 2,4-dinitrophenol
6A 2-nitrophenol
7A 4-nitrophenol
8A p-chloro-m-cresol
9A pentachlorophenol
10A phenol
11A 2,4,6-trichlorophenol

Base/Neutral

1B acenaphthene
2B acenaphthylene
3B anthracene
4B benzidine
5B benzo(a)anthracene
6B benzo(a)pyrene
7B 3,4-benzofluoranthene
8B benzo(ghi)perylene
9B benzo(k)fluoranthene
10B bis(2-chloroethoxy)methane
11B bis(2-chloroethyl)ether
12B bis(2-chloroisopropyl)ether
13B bis (2-ethylhexyl)phthalate
14B 4-bromophenyl phenyl ether
15B butylbenzyl phthalate
16B 2-chloronaphthalene
17B 4-chlorophenyl phenyl ether
18B chrysene
19B dibenzo(a,h)anthracene
20B 1,2-dichlorobenzene
21B 1,3-dichlorobenzene
22B 1,4-dichlorobenzene
23B 3,3'-dichlorobenzidine
24B diethyl phthalate
25B dimethyl phthalate
26B di-n-butyl phthalate
27B 2,4-dinitrotoluene
28B 2,6-dinitrotoluene
29B di-n-octyl phthalate
30B 1,2-diphenylhydrazine (as azobenzene)
31B fluroranthene
32B fluorene
33B hexachlorobenzene
34B hexachlorobutadiene
35B hexachlorocyclopentadiene
36B hexachloroethane
37B indeno(1,2,3-cd)pyrene
38B isophorone
39B napthalene
40B nitrobenzene
41B N-nitrosodimethylamine
42B N-nitrosodi-n-propylamine
43B N-nitrosodiphenylamine
44B phenanthrene
45B pyrene
46B 1,2,4-trichlorobenzene

Pesticides

1P aldrin
2P alpha-BHC
3P beta-BHC
4P gamma-BHC
5P delta-BHC
6P chlordane
7P 4,4'-DDT
8P 4,4'-DDE
9P 4,4'-DDD
10P dieldrin
11P alpha-endosulfan
12P beta-endosulfan
13P endosulfan sulfate
14P endrin
15P endrin aldehyde
16P heptachlor
17P heptachlor epoxide
18P PCB-1242
19P PCB-1254
20P PCB-1221
21P PCB-1232
22P PCB-1248
23P PCB-1260
24P PCB-1016
25P toxaphene

Table III.—Other Toxic Pollutants (Metals and Cyanide) and Total Phenols

Antimony, Total
Arsenic, Total
Beryllium, Total
Cadmium, Total
Chromium, Total
Copper, Total
Lead, Total
Mercury, Total
Nickel, Total
Selenium, Total
Silver, Total
Thallium, Total
Zinc, Total
Cyanide, Total
Phenols, Total

Table V.—Toxic Pollutants and Hazardous Substances Required To Be Identified by Existing Dischargers if Expected To Be Present

Toxic Pollutants

Asbestos

Hazardous Substances

Acetaldehyde
Allyl alcohol
Allyl chloride
Amyl acetate
Aniline
Benzonitrile
Benzyl chloride
Butyl acetate
Butylamine
Captan
Carbaryl
Carbofuran
Carbon disulfide
Chlorpyrifos

Coumaphos
Cresol
Crotonaldehyde
Cyclohexane
2,4-D (2,4-Dichlorophenoxy acetic acid)
Diazinon
Dicamba
Dichlobenil
Dichlone
2,2-Dichloropropionic acid
Dichlorvos
Diethyl amine
Dimethyl amine
Dintrobenzene
Diquat
Disulfoton
Diuron
Epichlorohydrin
Ethion
Ethylene diamine
Ethylene dibromide
Formaldehyde
Furfural
Guthion
Isoprene
Isopropanolamine Dodecylbenzenesulfonate
Kelthane
Kepone
Malathion
Mercaptodimethur
Methoxychlor
Methyl mercaptan
Methyl methacrylate
Methyl parathion
Mevinphos
Mexacarbate
Monoethyl amine
Monomethyl amine
Naled
Napthenic acid
Nitrotoluene
Parathion
Phenosulfanate
Phosgene
Propargite
Propylene oxide
Pyrethrins
Quinoline
Resorcinol
Strontium
Strychnine
Styrene
2,4,5-T (2,4,5-Trichlorophenoxy acetic acid)
TDE (Tetrachlorodiphenylethane)
2,4,5-TP [2-(2,4,5-Trichlorophenoxy) propanoic acid]
Trichlorofan
Triethanolamine dodecylbenzenesulfonate
Triethylamine
Trimethylamine
Uranium
Vanadium
Vinyl acetate
Xylene
Xylenol
Zirconium

BILLING CODE 3560-60-P

THIS FORM REPLACES PREVIOUS FORM 3510-6 (8-92)
See Reverse for Instructions

Form Approved. OMB No. 2040-0086
Approval expires 8-31-98

NPDES FORM

EPA

United States Environmental Protection Agency
Washington, DC 20460

Notice of Intent (NOI) for Storm Water Discharges Associated with Industrial Activity Under a NPDES General Permit

Submission of this Notice of Intent constitutes notice that the party identified in Section II of this form intends to be authorized by a NPDES permit issued for storm water discharges associated with industrial activity in the State identified in Section III of this form. Becoming a permittee obligates such discharger to comply with the terms and conditions of the permit. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. Permit Selection: You must indicate the NPDES Storm Water general permit under which you are applying for coverage. Check one of these.

Baseline Industrial ☐ Baseline Construction ☐ Multi-Sector (Group Permit) ☐

II. Facility Operator Information

Name: Phone:

Address: Status of Owner/Operator:

City: State: ZIP Code:

III. Facility/Site Location

Name: Is the facility located on Indian Lands? (Y or N) ☐

Address:

City: State: ZIP Code:

Latitude: Longitude: Quarter: Section: Township: Range:

IV. Site Activity Information

MS4 Operator Name:

Receiving Water Body:

If you are filing as a co-permittee, enter storm water general permit number:

SIC or Designated Activity Code: Primary: 2nd:

Is the facility required to submit monitoring data? (1, 2, 3, or 4) ☐

If You Have Another Existing NPDES Permit, Enter Permit Number:

Multi-Sector Permit Applicants Only:

Based on the instructions provided in Addendum H of the Multi-Sector permit, are species identified in Addendum H in proximity to the storm water discharges to be covered under this permit, or the areas of BMP construction to control those storm water discharges? (Y or N) ☐

Will construction (land disturbing activities) be conducted for storm water controls? (Y or N) ☐

Is applicant subject to and in compliance with a written historic preservation agreement? (Y or N) ☐

V. Additional Information Required for Construction Activities Only

Project Start Date: Completion Date:

Estimated Area to be Disturbed (in Acres):

Is the Storm Water Pollution Prevention Plan in compliance with State and/or Local sediment and erosion plans? (Y or N) ☐

VI. Certification: The certification statement in Box 1 applies to all applicants. The certification statement in Box 2 applies only to facilities applying for the Multi-Sector storm water general permit.

BOX 1

ALL APPLICANTS:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

BOX 2

MULTI-SECTOR STORM WATER GENERAL PERMIT APPLICANTS ONLY:

I certify under penalty of law that I have read and understand the Part I.B. eligibility requirements for coverage under the Multi-Sector storm water general permit, including those requirements relating to the protection of species identified in Addendum H.

To the best of my knowledge, the discharges covered under this permit, and construction of BMPs to control storm water run-off, are not likely to and will not likely adversely affect any species identified in Addendum H of the Multi-Sector storm water general permit or are otherwise eligible for coverage due to previous authorization under the Endangered Species Act.

To the best of my knowledge, I further certify that such discharges, and construction of BMPs to control storm water run-off, do not have an effect on properties listed or eligible for listing on the National Register of Historic Places under the National Historic Preservation Act, or are otherwise eligible for coverage due to a previous agreement under the National Historic Preservation Act.

I understand that continued coverage under the Multi-Sector general permit is contingent upon maintaining eligibility as provided for in Part I.B.

Print Name: Date:

Signature:

EPA Form 3510-6 (8-96)

Instructions - EPA Form 3510-6
Notice Of Intent (NOI) For Storm Water Discharges Associated With Industrial Activity
To Be Covered Under a NPDES General Permit

Who Must File A Notice Of Intent (NOI) Form

Federal law at 40 CFR Part 122 prohibits point source discharges of storm water associated with industrial activity to a water body(ies) of the U.S without a National Pollutant Discharge Elimination System (NPDES) permit. The operator of an industrial activity that has such a storm water discharge must submit a NOI to obtain coverage under a NPDES Storm Water General Permit. If you have questions about whether you need a permit under the NPDES Storm Water program, or if you need information as to whether a particular program is administered by EPA or a state agency, telephone or write to the Notice of Intent Processing Center at (703) 931-3230.

Where To File NOI Form

NOIs must be sent to the following address: Storm Water Notice of Intent (4203)
401 M Street, S.W.
Washington, DC 20460

Completing The Form

You must type or print, using upper-case letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions on this form, call the Notice of Intent Processing Center at (703) 931-3230.

Section I Permit Selection

You must indicate the NPDES storm water general permit under which you are applying for coverage. Check one box only. The Baseline Industrial and Baseline Construction permits were issued in September 1992. The Multi-Sector Permit became effective October 1, 1995.

Section II Facility Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same as the name of the facility. The responsible party is the legal entity that controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

Enter the appropriate letter to indicate the legal status of the operator of the facility: F = Federal; S = State; M = Public (other than federal or state); P = Private.

Section III Facility/Site Location Information

Enter the facility's or site's official or legal name and complete street address, including city, state, and ZIP code. If the facility or site lacks a street address, indicate the state and either the latitude and longitude of the facility to the nearest 15 seconds or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site. Do not provide a P.O. Box number as the street address.

Indicate whether the facility is located on Indian lands.

Section IV Site Activity Information

If the storm water discharges to a municipal separate storm sewer system (MS4), enter the name of the operator of the MS4 (e.g., municipality name, county name) and the receiving water of the discharge from the MS4. (A MS4 is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by a state, city, town, borough, county, parish, district, association, or other public body which is designed or used for collecting or conveying storm water.)

If the facility discharges storm water directly to receiving water(s), enter the name of the receiving water(s).

If you are filing as a co-permittee and a storm water general permit number has been issued, enter that number in the space provided.

Indicate the monitoring status of the facility. Refer to the permit for information on monitoring requirements. Indicate the monitoring status by entering one of the following:

1 = Not subject to monitoring requirements under the conditions of the permit.
2 = Subject to monitoring requirements and required to submit data.
3 = Subject to monitoring requirements but not required to submit data.
4 = Subject to monitoring requirements but submitting certification for monitoring exclusion.

List, in descending order of significance, up to two 4-digit standard industrial classification (SIC) codes that best describe the principal products or services provided at the facility or site identified in Section III of this application. If you are applying for coverage under the construction general permit, enter "CO" (which represents SIC codes 1500 - 1799).

For industrial activities defined in 40 CFR 122.26(b)(14)(i)-(xi) that do not have SIC codes that accurately describe the principal products produced or services provided, use the following 2-character codes.

HZ = Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA [40 CFR 122.26 (b)(14)(iv)];
LF = Landfills, land application sites, and open dumps that receive or have received any industrial wastes, including those that are subject to regulation under subtitle D of RCRA [40 CFR 122.26 (b)(14)(v)];
SE = Steam electric power generating facilities, including coal handling sites [40 CFR 122.26 (b)(14)(vii)];
TW = Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage [40 CFR 122.26 (b)(14)(ix)]; or,
CO = Construction activities [40 CFR 122.26 (b)(14)(x)].

If there is another NPDES permit presently issued for the facility or site listed in Section III, enter the permit number. If an application for the facility has been submitted but no permit number has been assigned, enter the application number.

Facilities applying for coverage under the Multi-Sector storm water general permit must answer the last three questions in Section IV. Refer to Addendum H of the Multi-Sector general permit for a list of species that are either proposed or listed as threatened or endangered. "BMP" means "Best Management Practices" that are used to control storm water discharges.

Indicate whether any construction will be conducted to install or develop storm water runoff controls.

Section V Additional Information Required for Construction Activities Only

Construction activities must complete Section V in addition to Sections I through IV. Only construction activities need to complete Section V.

Enter the project start date and the estimated completion date for the entire development plan.

Provide an estimate of the total number of acres of the site on which soil will be disturbed (round to the nearest acre).

Indicate whether the storm water pollution prevention plan for the site is in compliance with approved state and/or local sediment and erosion plans, permits, or storm water management plans.

Section VI Certification

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, state, Federal, or other public facility: by either a principal executive officer or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per application, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, 2136, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or Director, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

THIS FORM REPLACES PREVIOUS FORM 3510-7 (8-92)
Please See Instructions Before Completing This Form

Form Approved. OMB No. 2040-0086
Approval expires: 8-31-98

NPDES FORM

EPA

United States Environmental Protection Agency
Washington, DC 20460

Notice of Termination (NOT) of Coverage Under a NPDES General Permit for Storm Water Discharges Associated with Industrial Activity

Submission of this Notice of Termination constitutes notice that the party identified in Section II of this form is no longer authorized to discharge storm water associated with industrial activity under the NPDES program. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. Permit Information

NPDES Storm Water General Permit Number: _____

Check Here If You are No Longer the Operator of the Facility: ☐

Check Here If the Storm Water Discharge is Being Terminated: ☐

II. Facility Operator Information

Name: _____ Phone: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

III. Facility/Site Location Information

Name: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Latitude: _____ Longitude: _____ Quarter: _____ Section: _____ Township: _____ Range: _____

IV. Certification

I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by a NPDES general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

Print Name: _____ Date: _____

Signature: _____

Instructions for Completing Notice of Termination (NOT) Form

Who May File a Notice of Termination (NOT) Form

Permittees who are presently covered under an EPA-issued National Pollutant Discharge Elimination System (NPDES) General Permit (including the 1995 Multi-Sector Permit) for Storm Water Dicharges Associated with Industrial Activity may submit a Notice of Termination (NOT) form when their facilities no longer have any storm water discharges associated with industrial activity as defined in the storm water regulations at 40 CFR 122.26(b)(14), or when they are no longer the operator of the facilities.

For construction activities, elimination of all storm water discharges associated with industrial activity occurs when disturbed soils at the construction site have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with industrial activity from the construction site that are authorized by a NPDES general permit have otherwise been eliminated. Final stabilization means that all soil-disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Where to File NOT Form

Send this form to the the following address:

Storm Water Notice of Termination (4203)
401 M Street, S.W.
Washington, DC 20460

Completing the Form

Type or print, using upper-case letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions about this form, telephone or write the Notice of Intent Processing Center at (703) 931-3230.

Instructions - EPA Form 3510-7
Notice of Termination (NOT) of Coverage Under The NPDES General Permit for Storm Water Discharges Associated With Industrial Activity

Section I Permit Information

Enter the existing NPDES Storm Water General Permit number assigned to the facility or site identified in Section III. If you do not know the permit number, telephone or write your EPA Regional storm water contact person.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box:

If there has been a change of operator and you are no longer the operator of the facility or site identified in Section III, check the corresponding box.

If all storm water discharges at the facility or site identified in Section III have been terminated, check the corresponding box.

Section II Facility Operator Information

Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same name as the facility. The operator of the facility is the legal entity which controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

Section III Facility/Site Location Information

Enter the facility's or site's official or legal name and complete address, including city, state and ZIP code. If the facility lacks a street address, indicate the state, the latitude and longitude of the facility to the nearest 15 seconds, or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site.

BILLING CODE 6560-50-C

Section IV Certification

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, State, Federal, or other public facility: by either a principal executive officer or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per application, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, 2136, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or Director, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

ADDENDUM D.—PARTIAL LIST OF LARGE, MEDIUM, AND DESIGNATED MUNICIPALITIES

[Incorporated Places]

State	Place name
Alaska	Anchorage city.*
Alabama	Adamsville city.
	Alabaster city.
	Bessemer city.
	Birmingham city.*
	Brighton city.
	Brookside town.
	Chickasaw city.
	Creola city.
	Daphne city.
	Fairfield city.
	Fairhope city.
	Fultondale city.
	Gardendale city.
	Graysville city.
	Helena city.
	Homewood city.
	Hoover city.
	Hueytown city.
	Huntsville city.*
	Indian Springs.
	Irondale city.
	Leeds city.
	Lipscomb city.
	Madison city.
	Maytown town.
	Midfield city.
	Mobile city.*
	Montgomery city.*
	Moody town.
	Mountain Brook city.
	Mulga town.
	Pelham city.
	Pleasant Grove city.
	Prichard city.
	Saraland city.
	Satsuma city.
	Tarrant city.
	Trussville city.
	Vestavia Hills city.
Arkansas	Little Rock city.*
Arizona	Glendale city.†
	Mesa city.*
	Phoenix city.*
	Scottsdale city.†
	Tempe city.*
	Tucson city.*
California	Agoura Hills city.
	Alameda city.
	Albany city.
	Alhambra city.
	Anaheim city.*
	Arcadia city.
	Artesia city.
	Atherton town.
	Azusa city.
	Bakersfield city.*
	Baldwin Park city.
	Bell city.
	Bellflower city.
	Bell Gardens city.
	Belmont city.
	Berkeley city.*
	Beverly Hills city.
	Big Bear Lake city.
	Bradbury city.
	Brentwood city.
	Brisbane city.

ADDENDUM D.—PARTIAL LIST OF LARGE, MEDIUM, AND DESIGNATED MUNICIPALITIES—Continued

[Incorporated Places]

State	Place name
	Burbank city.
	Burlingame city.
	Camarillo city.
	Campbell city.
	Carlsbad city.
	Carson city.
	Cerritos city.
	Chula Vista city.
	Claremont city.
	Clayton city.
	Colma town.
	Commerce city.
	Compton city.
	Concord city.
	Contra Costa county (15 cities).
	Coronado city.
	Covina city.
	Cudahy city.
	Culver City city.
	Cupertino city.
	Daly City city.
	Del Mar city.
	Diamond Bar city.
	Downey city.
	Duarte city.
	Dublin city.
	East Palo Alto city.
	El Cajon city.
	El Monte city.
	El Segundo city.
	Emeryville city.
	Encinitas city.
	Escondido city.
	Fairfield city.
	Fillmore city.
	Folsom city.
	Foster City city.
	Fremont city.*
	Fresno city.*
	Fullerton city.*
	Galt city.
	Gardena city.
	Garden Grove city.*
	Gilroy city.
	Glendale city.*
	Glendora city.
	Half Moon Bay city.
	Hawaiian Gardens city.
	Hawthorne city.
	Hayward city.†
	Hermosa Beach city.
	Hidden Hills city.
	Hillsborough town.
	Huntington Beach city.*
	Huntington Park city.
	Imperial Beach city.
	Industry city.
	Inglewood city.†
	Irvine city.†
	Irwindale city.
	La Canada Flintridge city.
	Laguna Beach city.
	Lake Tahoe Basin (1 city)

ADDENDUM D.—PARTIAL LIST OF LARGE, MEDIUM, AND DESIGNATED MUNICIPALITIES—Continued

[Incorporated Places]

State	Place name
	Lakewood city.
	La Mesa city.
	La Mirada city.
	La Palma city.
	La Puente city.
	La Verne city.
	Lawndale city.
	Lemon Grove city.
	Livermore city.
	Lomita city.
	Long Beach city.*
	Los Alamitos city.
	Los Altos city.
	Los Altos Hills town.
	Los Angeles city.*
	Los Gatos town.
	Lynwood city.
	Manhattan Beach city.
	Maywood city.
	Menlo Park city.
	Millbrae city.
	Milpitas city.
	Modesto city.*
	Monrovia city.
	Montebello city.
	Monterey Park city.
	Monte Sereno city.
	Moorpark city.
	Moreno Valley city.†
	Mountain View city.
	National City city.
	Newark city.
	Norwalk city.
	Oakland city.*
	Oceanside city.†
	Ojai city.
	Ontario city.†
	Orange city.†
	Orange county (17 cities).
	Oxnard city.*
	Pacifica city.
	Palo Alto city.
	Palos Verdes Estates city.
	Paramount city.
	Pasadena city.*
	Pico Rivera city.
	Piedmont city.
	Pleasanton city.
	Pomona city.†
	Port Hueneme city.
	Poway city.
	Rancho Cucamonga city.†
	Rancho Palos Verdes city.
	Redondo Beach city.
	Redwood City city.
	Riverside city.*
	Riverside county (10 cities).
	Rolling Hills city.
	Rolling Hills Estates city.
	Rosemead city.
	Sacramento city.*
	Salinas city.†

ADDENDUM D.—PARTIAL LIST OF LARGE, MEDIUM, AND DESIGNATED MUNICIPALITIES—Continued

[Incorporated Places]

State	Place name
	San Bernardino city.*
	San Bernardino county (13 cities).
	San Bruno city.
	San Carlos city.
	San Diego city.*
	San Dimas city.
	San Fernando city.
	San Gabriel city.
	San Jose city.*
	San Leandro city.
	San Marcos city.
	San Marino city.
	San Mateo city.
	Santa Ana city.*
	Santa Clara.
	Santa Clarita city.†
	Santa Fe Springs city.
	Santa Monica city.
	Santa Paula city.
	Santa Rosa city.†
	Santee city.
	Saratoga city.
	Seal Beach city.
	Sierra Madre city.
	Signal Hill city.
	Simi Valley city.†
	Solana Beach city.
	South El Monte city.
	South Gate city.
	South Pasadena city.
	South San Francisco city.
	Stockton city.*
	Suisun City city.
	Sunnyvale city.*
	Temple City city.
	Thousand Oaks city†.
	Torrance city.*
	Union City city.
	Vallejo city†.
	Vernon city.
	Vista city.
	Walnut city.
	West Covina city.
	West Hollywood city.
	Westlake Village city.
	Whittier city.
	Woodside town.
Colorado	Aurora city.*
	Colorado Springs city.*
	Denver city.*
	Englewood city.
	Lakewood city.*
	Pueblo city.
Connecticut	Stamford city.*
District of Columbia	Washington city.*
Delaware	Arden village.
	Ardencroft village.
	Ardentown village.
	Bellefonte town.
	Delaware City city.
	Elsmere town.
	Middletown town.
	Newark city.
	New Castle city.
	Newport town.

ADDENDUM D.—PARTIAL LIST OF LARGE, MEDIUM, AND DESIGNATED MUNICIPALITIES—Continued

[Incorporated Places]

State	Place name
	Odessa town.
	Townsend town.
	Wilmington city.
Florida	Apopka city.
	Atlantic Beach city.
	Atlantis city.
	Auburndale city.
	Bal Harbour village.
	Bartow city.
	Bay Harbor Islands town.
	Bay Lake city.
	Belleair town.
	Belleair Beach city.
	Belleair Bluffs city.
	Belle Glade city.
	Belle Isle city.
	Boca Raton city.
	Boynton Beach city.
	Briny Breezes town.
	Century town.
	Clearwater city.
	Cloud Lake town.
	Coconut Creek city.
	Cooper City city.
	Coral Gables city.
	Coral Springs city.
	Dania city.
	Davenport city.
	Davie town.
	Deerfield Beach city.
	Delray Beach city.
	Dundee town.
	Dunedin city.
	Eagle Lake city.
	Eatonville town.
	Edgewood city.
	Fort Lauderdale city.*
	Fort Meade city.
Florida	Frostproof city
	Glen Ridge town.
	Golden Beach town.
	Golf village.
	Golfview town.
	Greenacres City city.
	Gulfport city.
	Gulf Stream town.
	Haines City city.
	Hallandale city.
	Haverhill town.
	Hialeah city.*
	Hialeah Gardens city.
	Highland Beach town.
	Highland Park village.
	Hillcrest Heights town.
	Hollywood city.*
	Homestead city.
	Hypoluxo town.
	Indian Creek village.
	Indian Rocks Beach city.
	Jacksonville Beach city.
	Jacksonville city.*
	Juno Beach town.
	Jupiter town.
	Jupiter Inlet Colony town.

ADDENDUM D.—PARTIAL LIST OF LARGE, MEDIUM, AND DESIGNATED MUNICIPALITIES—Continued

[Incorporated Places]

State	Place name
	Key Biscayne village.
	Kenneth City town.
	Lake Alfred city.
	Lake Buena Vista city.
	Lake Clarke Shores town.
	Lake Hamilton town.
	Lakeland city.
	Lake Park town.
	Lake Wales city.
	Lake Worth city.
	Lantana town.
	Largo city.
	Lauderdale-by-the-Sea town.
	Lauderdale Lakes city.
	Lauderhill city.
	Lighthouse Point city.
	Longboat Key town.
	Madeira Beach city.
	Maitland city.
	Manalapan town.
	Mangonia Park town.
	Margate city.
	Medley town.
	Miami city.*
	Miami Beach city.
	Miami Shores village.
	Miami Springs city.
	Miramar city.
	Mulberry city.
	Neptune Beach city.
	North Bay Village city.
	North Lauderdale city.
	North Miami city.
	North Miami Beach city.
	North Palm Beach village.
	North Port city.
	North Redington Beach town.
	Oakland Park city.
	Ocean Ridge town.
	Ocoee city.
	Oldsmar city.
	Opa-locka city.
	Orlando city.*
	Pahokee city.
	Palm Beach town.
	Palm Beach Gardens city.
	Palm Beach Shores town.
	Palm Springs village.
	Parkland city.
	Pembroke Park town.
	Pembroke Pines city.
	Pennsuco
	Pensacola city.
	Pinellas Park city.
	Plantation city.
	Plant City city.
	Polk City town.
	Pompano Beach city.
	Redington Beach town.

ADDENDUM D.—PARTIAL LIST OF LARGE, MEDIUM, AND DESIGNATED MUNICIPALITIES—Continued

[Incorporated Places]

State	Place name
	Redington Shores town.
	Riviera Beach city.
	Royal Palm Beach village.
	Safety Harbor city.
	St. Petersburg Beach city.
	St. Petersburg city.*
	Sarasota city.
	Sea Ranch Lakes village.
	Seminole city.
	South Bay city.
	South Miami city.
	South Palm Beach town.
	South Pasadena city.
	Sunrise city.
	Surfside town.
	Sweetwater city.
	Tallahassee city.†
	Tamarac city.
	Tampa city.*
	Tarpon Springs city.
	Temple Terrace city.
	Tequesta village.
	Treasure Island city.
	Venice city.
	West Miami city.
	West Palm Beach city.
	Wilton Manors city.
	Winter Garden city.
	Winter Haven city.
	Winter Park city.
Georgia	Acworth city.
	Alpharetta city.
	Atlanta city.*
	Austell city.
	Bloomingdale city.
	Buford city.
	Chamblee city.
	Clarkston city.
	College Park city.
	Columbus city.*
	Decatur city.
	Doraville city.
	Duluth city.
	East Point city.
	Fairburn city.
	Forest Park city.
	Garden City city.
	Hapeville city.
	Jonesboro city.
	Kennesaw city.
	Lawrenceville city.
	Lilburn city.
	Lithonia city.
	Macon city.*
	Marietta city.
	Morrow city.
	Norcross city.
	Palmetto city.
	Payne city.
	Pooler city.
	Powder Springs city.
	Riverdale city.
	Roswell city.
	Savannah city.*
	Smyrna city.
	Snellville city
	Stone Mountain city.
	Sugar Hill city.
	Suwanee city.
	Thunderbolt town.
	Union City city.
Iowa	Cedar Rapids city.*
	Davenport city.
	Des Moines city.*
Idaho	Boise City city.*
	Garden City city.
Illinois	Rockford city.*
	Springfield city.†
Indiana	Fort Wayne city.*
	Indianapolis city.*
Kansas	Kansas City city.*
	Overland Park city.†
	Topeka city.*
	Wichita city.*
Kentucky	Lexington-Fayette.*
	Louisville city.*
Louisiana	Baton Rouge city.*
	New Orleans city.*
	Shreveport city.*
Massachusetts	Boston city.*
	Worcester city.*
Maryland	Baltimore city.*
Michigan	Ann Arbor city.*
	Flint city.*
	Grand Rapids city.*
	Sterling Heights city.*
	Warren city.*
Minnesota	Minneapolis city.*
	St. Louis Park city.
	St. Paul city.*
Missouri	Independence city.*
	Kansas City city.*
	Springfield city.*
Mississippi	Jackson city.*
Nebraska	Lincoln city.*
	Omaha city.*
New Mexico	Albuquerque city.*
Nevada	Henderson city.
	Las Vegas city.*
	North Las Vegas city.
	Reno city.*
	Sparks city.
New York	New York city.*
	(Bronx Borough).
	(Brooklyn Borough).
	(Manhattan Borough).
	(Queens Borough).
	(Staten Island Borough).
North Carolina	Charlotte city.*
	Durham city.*
	Fayetteville city.
	Greensboro city.*
	Raleigh city.*
	Winston-Salem city.*
Ohio	Akron city.*
	Cincinnati city.*
	Cleveland city.*
	Columbus city.*
	Dayton city.*
	Toledo city.*
Oklahoma	Oklahoma City city.*
	Tulsa city.*
Oregon	Banks city.
	Barlow city.
	Beaverton city.
	Canby city.
	Cornelius city.
	Durham city.
	Estacada city.
	Eugene city.*
	Fairview city.
	Forest Grove city.
	Gaston city.
	Gladstone city.
	Gresham city.
	Happy Valley city.
	Hillsboro city.
	Johnson City city.
	King City city.
	Lake Oswego city.
	Milwaukie city.
	Molalla city.
	North Plains city.
	Oregon City city.
	Portland city.*
	Rivergrove city.
	Salem city.†
	Sandy city.
	Sherwood city.
	Tigard city
	Tualatin city.
	West Linn city.
	Wilsonville city.
Pennsylvania	Allentown city.*
	Philadelphia city.*
South Dakota	Sioux Falls City.
Tennessee	Bartlett town.
	Belle Meade city.
	Berry Hill city.
	Chattanooga city.*
	Collierville town.
	East Ridge city.
	Forest Hills city.
	Germantown city.
	Goodlettsville city.
	Knoxville city.*
	Lakewood city.
	Memphis city.*
	Nashville-Davidson.*
	Oak Hill city.
	Red Bank city.
	Ridgetop town.
Texas	Abilene city.†
	Amarillo city.*
	Arlington city.*
	Austin city.*
	Beaumont city.*
	Corpus Christi city.*
	Dallas city.*
	El Paso city.*
	Fort Worth city.*
	Garland city.*
	Houston city.*
	Irving city.*
	Laredo city.†
	Lubbock city.*
	Mesquite city.†

ADDENDUM D.—PARTIAL LIST OF LARGE, MEDIUM, AND DESIGNATED MUNICIPALITIES—Continued

[Incorporated Places]

State	Place name
	Pasadena city.*
	Plano city.†
	San Antonio city.*
	Waco city.*
Utah	Salt Lake City city.*
Virginia	Chesapeake city.*
	Hampton city.*
	Newport News city.*
	Norfolk city.*
	Portsmouth city.*
	Richmond city.*
	Roanoke city.
	Virginia Beach city.*
Washington	Seattle city.*
	Tacoma city.*
Wisconsin	Madison city.*
	Milwaukee city.*

Note: Unless indicated otherwise, municipalities have been designated.

* Identified in November 1990 rule.

† 1990 Census population increased to over 100,000.

PARTIAL LIST OF LARGE, MEDIUM, AND DESIGNATED MUNICIPALITIES

[Counties]

State	County
Alabama	Baldwin county.[1]
	Jefferson county.[6]
	Mobile county.[7]
	Shelby county.[8]
	St. Clair county.[9]
Arizona	Pima County.*
California	Alameda County.*
	Contra Costa County.*
	Kern County.*
	Lake Tahoe Basin.* (2 counties).
	Los Angeles County.*
	Orange County.*
	Riverside County.*
	Sacramento County.
	San Bernardino County.*
	San Diego County.*
	San Mateo County.
	Santa Clara County.
	Ventura County.
Colorado	Arapahoe County.†
Delaware	New Castle County.*
Florida	Broward County.*
	Dade County.*
	Escambia County.*
	Hillsborough County.*
	Lee County.†
	Manatee County.†
	Orange County.*
	Palm Beach County.*
	Pasco County.†
	Pinellas County.*
	Polk County.*
	Sarasota County.*
	Seminole County.†
Georgia	Bibb County.
	Chatham County.
	Clayton County.*
	Cobb County.*
	DeKalb County.*
	Fulton County.†
	Gwinnett County.†
	Muscogee County.
	Richmond County.*
Hawaii	Honolulu County.*
Kentucky	Jefferson County.
Louisiana	East Baton Rouge Parish.†
	Jefferson Parish.*
Maryland	Anne Arundel County.*
	Baltimore County.*
	Carroll County.
	Charles County.
	Frederick County.
	Harford County.
	Howard County.†
	Montgomery County.*
	Prince George's County.*
	Washington County.
North Carolina	Cumberland County.*
Nevada	Clark County.*
	Washoe County.
Oregon	Clackamas County.
	Multnomah County.
	Washington County.*
South Carolina	Greenville County.*
	Richland County.*
Texas	Harris County.*
Utah	Salt Lake County.*
Virginia	Arlington County.*
	Chesterfield County.*
	Fairfax County.*
	Henrico County.*
	Prince William County.†
Washington	Clark County.†
	King County.*
	Pierce County.*
	Snohomish County.*
	Spokane County.†

[6] County was listed in regulation; however, population dropped below 100,000 in 1990 census.

[7] Unincorporated areas defined as: beginning at the mouth of the South Fork Deer River and extending west to SW corner Section 18, Township 6 South, Range 2 West, thence north to NW corner, Section 6, Township 2 South, Range 2 West, thence east to the Mobile County line, thence south along the county line to U.S. Highway 90 bridge.

[8] All unincorporated areas of Shelby County within the drainage basin of the Cahaba River upstream of the confluence of Shoal Creek and the Cahaba River.

[9] Unincorporated areas of St. Clair County within the drainage basin of the Cahaba River.

* Identified in November 1990 rule.

† 1990 Census unincorporated, urbanized population increased to more than 100,000.

PARTIAL LIST OF LARGE, MEDIUM, AND DESIGNATED MUNICIPALITIES [BOUNDARIES NOT DEFINED BY CENSUS]

State	Municipal separate storm sewer system
Alaska	DOT.[1]
	University of Alaska.
Alabama	Highway Department.
Arizona	DOT.
California	Alameda County Flood Control District.
	Zone 7 of the Alameda County.
	Flood Control District.
	DOT.
	Coachella Valley Area.
	Contra Costa County Flood Control District.
	Orange County Flood Control District.
	Riverside Flood Control District.
	San Bernardino Flood Control District.
	San Diego Unified Port District.
	Santa Clara Valley Water District.
Colorado	DOT.
	Highway Department.
Delaware	DOT.
Florida	DOT.

PARTIAL LIST OF LARGE, MEDIUM, AND DESIGNATED MUNICIPALITIES [BOUNDARIES NOT DEFINED BY CENSUS]—Continued

State	Municipal separate storm sewer system
	Urban Water Control Districts.
Hawaii	DOT.
Idaho	DOT.
Illinois	DOT.
Indiana	DOT.
Kansas	Fairfax Drainage District.
	Kaw Valley Drainage District.
Louisiana	DOT.
Maryland	State Highway Administration.
Michigan	University of Michigan.
	DOT.
Minnesota	DOT.
North Carolina	DOT.
Nevada	Clark County Flood Control District.
	DOT.
New Mexico	Albuquerque Metropolitan Flood Control Authority.
	DOT.
Ohio	DOT.
Oklahoma	DOT.
Oregon	DOT.
	Port of Portland.
Pennsylvania	DOT.
South Carolina	Harbor of Charleston.
Tennessee	DOT.
Texas	Harris County Flood Control District.
	DOT.
Utah	DOT.
Wisconsin	DOT.
	University of Wisconsin.

[1] Department of Transportation.

Addendum E—Basic Format for Environmental Assessment

This is the basic format for the Environmental Assessment prepared by EPA from the review of the applicant's Environmental Information Document (EID) required for new source NPDES permits. Comprehensive information should be provided for those items or issues that are affected; the greater the impact, the more detailed information needed. The EID should contain a brief statement addressing each item listed below, even if the item is not applicable. The statement should at least explain why the item is not applicable.

A. General Information
1. Name of applicant
2. Type of facility
3. Location of facility
4. Product manufactured

B. Description Summaries
1. Describe the proposed facility and construction activity
2. Describe all ancillary construction not directly involved with the production processes
3. Describe briefly the manufacturing processes and procedures
4. Describe the plant site, its history, and the general area

C. Environmental Concerns
1. Historical and Archeological (include a statement from the State Historical Preservation Officer)
2. Wetlands Protection and 100-year Floodplain Management (the Army Corps of Engineers must be contacted if any wetland area of floodplain is affected)
3. Agricultural Lands (a prime farmland statement from the Soil Conservation Service must be included
4. Coastal Zone Management and Wild and Scenic Rivers
5. Endangered Species Protection and Fish and Wildlife Protection (a statement from the U.S. Fish and Wildlife Service must be included)
6. Air, Water, and Land Issues: quality, effects, usage levels, municipal services used, discharges and emissions, runoff and wastewater control, geology and soils involved, land-use compatibility, solid and hazardous waste disposal, natural and man-made hazards involved.
7. Biota concerns: floral, faunal, aquatic resources, inventories, and effects
8. Community Infrastructures available and resulting effects: social, economic, health, safety, educational, recreational, housing, transportation, and road resources

Basic Environmental Information Document Guidelines for New Source Category Industries

I. General Information

A. Name of Applicant and Proposed Facility:

B. Description of Site and Location:

C. Description of Project, Product, and Process:

ADDENDUM F—SECTION 313 WATER PRIORITY CHEMICALS

CAS No.	Common name
75–07–0	Acetaldehyde.
107–02–8	Acrolein.
107–13–1	Acrylonitrile.
309–00–2	Aldrin[1,4:5,8-Dimethanonaphthalene, 1, 2, 3, 4, 10, 10-hexachloro-1, 4, 4a, 5, 8, 8a hexahydro-(1.alpha., 4.alpha., 4a.beta., 5.alpha., 8.alpha., 8a.beta.)-].
107–05–1	Allyl Chloride.
7429–90–5	Aluminum (fume or dust).
7664–41–7	Ammonia.
62–53–3	Aniline.
120–12–7	Anthracene.
7440–36–0	Antimony.
7647189	Antimony pentachloride.
28300745	Antimony potassium tartrate.
7789619	Antimony tribromide.
10025919	Antimony trichloride.
7783564	Antimony trifluoride.
1309644	Antimony trioxide.
7440–38–2	Arsenic.
1303328	Arsenic disulfide.
1303282	Arsenic pentoxide.
7784341	Arsenic trichloride.
1327533	Arsenic trioxide.
1303339	Arsenic trisulfide.
1332–21–4	Asbestos (friable).
542621	Barium cyanide.
71–43–2	Benzene.
92–87–5	Benzidine.
100470	Benzonitrile.
218019	Benzo(a)phenanthrene.
50328	Benzo(a)pyrene.
205992	Benzo(b)fluoranthene.
205823	Benzo(j)fluoranthene.
207089	Benzo(k)fluoranthene.
189559	Benzo(rst)pentaphene.
56553	Benzo(a)anthracene.
100–44–7	Benzyl chloride.
7440–41–7	Beryllium.
7787475	Beryllium chloride.
7787497	Beryllium fluoride.
7787555	Beryllium nitrate.
111–44–4	Bis(2-chloroethyl) ether.
75–25–2	Bromoform.
74–83–9	Bromomethane (Methyl bromide).
85–68–7	Butyl benzyl phthalate.
7440–43–9	Cadmium.
543908	Cadmium acetate.
7789426	Cadmium bromide.
10108642	Cadmium chloride.
7778441	Calcium arsenate.
52740166	Calcium arsenite.
13765190	Calcium chromate.
592018	Calcium cyanide.
133–06–2	Captan [1H-Isoindole-1,3(2H)-dione,3a,4,7,7a-tetrahydro-2-[(trichloromethyl)thio]-].
63–25–2	Carbaryl [1-Naphthalenol, methylcarbamate].
75–15–0	Carbon disulfide.
1563662	Carbofuran.
56–23–5	Carbon tetrachloride.
57–74–9	Chlordane [4,7-Methanoindan,1,2,4,5,6,7,8,8- octachloro-2,3,3a,4,7,7a-hexahydro-].
7782–50–5	Chlorine.
59–50–7	4-Chloro 3-methyl phenol. *p*-Chloro-*m*-cresol.
108–90–7	Chlorobenzene.
75–00–3	Chloroethane (Ethyl chloride).
67–66–3	Chloroform.
74–87–3	Chloromethane (Methyl chloride).
95–57–8	2-Chlorophenol.
106–48–9	4-Chlorophenol.
75729	Chlorotrifluoromethane.
1066304	Chromic acetate.
11115745	Chromic acid.
10101538	Chromic sulfate.
7440–47–3	Chromium.

ADDENDUM F—SECTION 313 WATER PRIORITY CHEMICALS—Continued

CAS No.	Common name
1308–14–1	Chromium (Tri).
10049055	Chromous chloride.
7789437	Cobaltous bromide.
544183	Cobaltous formate.
14017415	Cobaltous sulfamate.
7440–50–8	Copper.
108–39–4	*m*-Cresol.
9548–7	*o*-Cresol.
106–44–5	*p*-Cresol.
4170303	Crotonaldehyde.
1319–77–3	Cresol (mixed isomers).
142712	Cupric acetate.
12002038	Cupric acetoarsenite.
7447394	Cupric chloride.
3251238	Cupric nitrate.
5893663	Cupric oxalate.
7758987	Cupric sulfate.
10380297	Cupric sulfate, ammoniated.
815827	Cupric tartrate.
57–12–5	Cyanide.
506774	Cyanogen chloride.
333415	Diazinon.
94–75–7	2,4-D [Acetic acid, (2,4-dichlorophenoxy)-].
226368	Dibenz(a,h)acridine.
224420	Dibenz(a,j)acridene.
5385751	Dibenzo(a,e)fluoranthene.
192654	Dibenzo(a,e)pyrene.
53703	Dibenzo(a,h)anthracene.
189640	Dibenzo(a,l)pyrene.
191300	Dibenzo(a,h)pyrene.
194592	7,H-Dibenzo(c,g)carbazole.
106–93–4	1,2-Dibromoethane (Ethylene dibromide).
84–74–2	Dibutyl phthalate.
1929733	2,4 D Butoxyethyl ester.
94804	2,4 D Butyl ester.
2971382	2,4 D Chlorocrotyl ester.
1918009	Dicamba.
95–50–1	1,2-Dichlorobenzene.
541–73–1	1,3-Dichlorobenzene.
106–46–7	1,4-Dichlorobenzene.
91–94–1	3,3'-Dichlorobenzidine.
75–27–4	Dichlorobromomethane.
107–06–2	1,2-Dichloroethane (Ethylene dichloride).
75434	Dichlorofluoromethane.
540–59–0	1,2-Dichloroethylene.
120–83–2	2,4-Dichlorophenol.
78–87–5	1,2-Dichloropropane.
10061026	trans-1,3-Dichloropropene.
542–75–6	1,3-Dichloropropylene.
62–73–7	Dichlorvos [Phosphoric acid, 2,2-dichloroethenyl dimethyl ester].
115–32–2	Dicofol [Benzenemethanol, 4-chloro-.alpha.-(4-chlorophenyl)-.alpha.-(trichloromethyl)-].
177–81–7	Di-(2-ethylhexyl) phthalate (DEHP).
84–66–2	Diethyl phthalate.
124403	Dimethylamine.
57976	7,12-Dimethylbenz(a)anthracene.
105–67–9	2,4-Dimethylphenol.
131–11–3	Dimethyl phthalate.
534–52–1	4,6-Dinitro-*o*-cresol.
51–28–5	2,4-Dinitrophenol.
121–14–2	2,4-Dinitrotoluene.
606–20–2	2,6-Dinitrotoluene.
117–84–0	*n*-Dioctyl phthalate.
122–66–7	1,2-Diphenylhydrazine (Hydrazobenzene).
94111	2,4-D Isopropyl ester.
106–89–8	Epichlorohydrin.
1320189	2,4-D Propylene glycol butyl ether ester.
330541	Diuron.
100–41–4	Ethylbenzene.
106934	Ethylene dibromide.
50–00–0	Formaldehyde.
76–44–8	Heptachlor [1,4,5,6,7,8,8-Heptachloro-3a,4,7,7a-tetrahydro-4,7-methano-1H-indene].
118–74–1	Hexachlorobenzene.

ADDENDUM F—SECTION 313 WATER PRIORITY CHEMICALS—Continued

CAS No.	Common name
319846	alpha-Hexachlorocyclohexane.
87–68–3	Hexachloro-1,3-butadiene.
77–47–4	Hexachlorocyclopentadiene.
67–72–1	Hexachloroethane.
7647–01–0	Hydrochloric acid.
74–90–8	Hydrogen cyanide.
7664–39–3	Hydrogen fluoride.
193395	Indeno[1,2,3-cd]pyrene.
7439–92–1	Lead.
301042	Lead acetate.
7784409	Lead arsenate.
7645252	Do.
10102484	Do.
7758954	Lead chloride.
13814965	Lead fluoborate.
7783462	Lead fluoride.
10101630	Lead iodide.
10099748	Lead nitrate.
7428480	Lead stearate.
1072351	Do.
52652592	Do.
7446142	Lead sulfate.
1314870	Lead sulfide.
592870	Lead thiocyanate.
58–89–9	Lindane [Cyclohexane, 1,2,3,4,5,6-hexachloro-(1.alpha.,3.beta.,4.alpha.,5.alpha.,6.beta.)-].
14307258	Lithium chromate.
121755	Malathion.
108–31–6	Maleic anhydride.
592041	Mercuric cyanide.
10045940	Mercuric nitrate.
7783359	Mercuric sulfate.
592858	Mercuric thiocyanate.
7782867	Mercurous nitrate.
7439–97–6	Mercury.
72–43–5	Methoxychlor [Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-].
80–62–6	Methyl methacrylate.
75865	2-Methyllactonitrile.
3697243	5-Methylchrysene.
298000	Methyl parathion.
7786347	Mevinphos.
300765	Naled.
91–20–3	Naphthalene.
7440–02–0	Nickel.
15699180	Nickel ammonium sulfate.
37211055	Nickel chloride.
7718549	Do.
12054487	Nickel hydroxide.
14216752	Nickel nitrate.
7786814	Nickel sulfate.
7697–37–2	Nitric acid.
98–95–3	Nitrobenzene.
88–75–5	2-Nitrophenol.
100–02–7	4-Nitrophenol.
5522430	1-Nitropyrene.
62–75–9	*N*-Nitrosodimethylamine.
86–30–6	*N*-Nitrosodiphenylamine.
621–64–7	*N*-Nitrosodi-*n*-propylamine.
56–38–2	Parathion [Phosphorothioic acid, O,O-diethyl-O-(4-nitrophenyl) ester].
87–86–5	Pentachlorophenol (PCP).
85018	Phenanthrene.
108–95–2	Phenol.
7664–38–2	Phosphoric acid.
7723–14–0	Phosphorus (yellow or white).
1336–36–3	Polychlorinated biphenyls (PCBs).
7784410	Potassium arsenate.
10124502	Potassium arsenite.
7778509	Potassium bichromate.
7789006	Potassium chromate.
151508	Potassium cyanide.
2312358	Propargite.
75–56–9	Propylene oxide.
91–22–5	Quinoline.

ADDENDUM F—SECTION 313 WATER PRIORITY CHEMICALS—Continued

CAS No.	Common name
7782–49–2	Selenium.
7446084	Selenium oxide.
7440–22–4	Silver.
7761888	Silver nitrate.
7631892	Sodium arsenate.
7784465	Sodium arsenite.
10588019	Sodium bichromate.
7775113	Sodium chromate.
143339	Sodium cyanide.
7632000	Sodium nitrite.
10102188	Sodium selenite.
7782823	Do.
7789062	Strontium chromate.
NA	Strychnine and salts.
100–42–5	Styrene.
7664–93–9	Sulfuric acid.
79–34–5	1,1,2,2-Tetrachloroethane.
127–18–4	Tetrachloroethylene (Perchloroethylene).
935–95–5	2,3,5,6-Tetrachlorophenol.
78002	Tetraethyl lead.
7440–28–0	Thallium.
10031591	Thallium sulfate.
108–88–3	Toluene.
8001–35–2	Toxaphene.
52–68–6	Trichlorfon [Phosphonic acid, (2,2,2-trichloro-1-hydroxyethyl)-dimethylester].
120–82–1	1,2,4-Trichlorobenzene.
71–55–6	1,1,1-Trichloroethane (Methyl chloroform).
79–00–5	1,1,2-Trichloroethane.
79–01–6	Trichloroethylene.
95–95–4	2,4,5-Trichlorophenol.
88–06–2	2,4,6-Trichlorophenol.
121448	Triethylamine.
7440–62–2	Vanadium (fume or dust).
108–05–4	Vinyl acetate.
75–01–4	Vinyl chloride.
75–35–4	Vinylidene chloride.
108–38–3	*m*-Xylene.
95–47–6	*o*-Xylene.
106–42–3	*p*-Xylene.
1330–20–7	Xylene (mixed isomers).
7440–66–6	Zinc (fume or dust).
557346	Zinc acetate.
14639975	Zinc ammonium chloride.
14639986	Do.
52628258	Do.
1332076	Zinc borate.
7699458	Zinc bromide.
3486359	Zinc carbonate.
7646857	Zinc chloride.
557211	Zinc cyanide.
7783495	Zinc fluoride.
557415	Zinc formate.
7779864	Zinc hydrosulfite.
7779886	Zinc nitrate.
127822	Zinc phenolsulfonate.
1314847	Zinc phosphide.
16871719	Zinc silicofluoride.
7733020	Zinc sulfate.

Addendum G—List of Applicable References

The following guidance manuals contain valuable information in assisting permittees in complying with the permit conditions of the multi-sector general permit and are available from The Office of Water Resources Center, USEPA—RC–4100, 401 M Street, SW., Washington, DC 20460, Telephone: (202) 260-7786.

Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices (EPA–832–R–92–006, September 1992).

Summary: Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices (October 1992).

NPDES Storm Water Sampling Guidance Document (EPA 833–B–92–001, July 1992).

Addendum H—Endangered Species Guidance

I. Instructions

Below is a list of species that EPA has determined may be affected by the activities covered by the multi-sector general permit (MSGP). These species are listed by county. In order to get MSGP coverage, applicants must:

- Indicate in box provided on the NOI whether any species listed in this Addendum are in proximity to the facility, and
- Certify pursuant to Section II.B.12 of the MSGP that their storm water discharges, and BMPs constructed to control storm water runoff, are not likely, and will not be likely to adversely affect species identified in Addendum H of this permit.

To do this, please follow steps 1 through 4 below.

Step 1: Review the County Species List to Determine if any Species are Located in the Discharging Facility County

If no species are listed in a facility's county or if a facility's county is not found on the list, an applicant is eligible for MSGP coverage and may indicate in the NOI that no species are found in proximity and provide the necessary certification. If species are located in the county, follow step 2 below. Where a facility is located in more than one county, the lists for all counties should be reviewed.

Step 2: Determine if any Species may be Found "In Proximity" to the Facility

A species is in proximity to a facility's storm water discharge when the species is:

- Located in the path or immediate area through which or over which contaminated point source storm water flows from industrial activities to the point of discharge into the receiving water.
- Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters.
- Located in the area of a site where storm water BMPs are planned or are to be constructed.

The area in proximity to be searched/surveyed for listed species will vary with the size of the facility, the nature and quantity of the storm water discharges, and the type of receiving waters. Given the number of facilities potentially covered by the MSGP, no specific method to determine whether species are in proximity is required for permit coverage under the MSGP. Instead, applicants should use the method or methods which best allow them to determine to the best of their knowledge whether species are in proximity to their particular facility. These methods may include:

- *Conducting visual inspections:* This method may be particularly suitable for facilities that are smaller in size, facilities located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no nature habitat; and facilities that discharge directly into municipal storm water collection systems. For other facilities, a visual survey of the facility site and storm water drainage areas may be insufficient to determine whether species are likely to be located in proximity to the discharge.
- *Contacting the nearest State Wildlife Agency or U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) offices.* Many endangered and threatened species are found in well-defined areas or habitats. That information is frequently known to state or federal wildlife agencies. FWS has offices in every state. NMFS has regional offices in: Gloucester, Massachusetts; St. Petersburg, Florida; Long Beach, California; Portland, Oregon; and Juneau, Alaska.
- *Contacting local/regional conservation groups.* These groups inventory species and their locations and maintain lists of sightings and habitats.
- *Conducting a formal biological survey.* Larger facilities with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in proximity and whether there are likely adverse effects.

If no species are in proximity, an applicant is eligible for MSGP coverage and may indicate that in the NOI and provide the necessary certification. If listed species are found in proximity to a facility, applicants must follow step 3 below.

Step 3: Determine if Species Could be Adversely Affected by the Facility's Storm Water Discharges or by BMPS to Control Those Discharges

Scope of Adverse Effects: Potential adverse effects from storm water include:

- *Hydrological.* Storm water may cause siltation, sedimentation or induce other changes in the receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely.
- *Habitat.* Storm water may drain or inundate listed species habitat.
- *Toxicity.* In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. Applicants must also consider the likelihood of adverse effects on species from any BMPs to control storm water. Most adverse impact from BMPs are likely to occur from the construction activities.

Using earlier ESA authorizations for MSGP eligibility: In some cases, a facility may be eligible for MSGP coverage because actual or potential adverse affects were addressed or discounted through an earlier ESA authorization. Examples of such authorization include:

- An earlier ESA section 7 consultation for that facility.
- A section 10(a) permit issued for the facility.
- An area-wide Habitat Conservation Plan applicable to that facility.
- A clearance letter from the Services (which discounts the possibility of an adverse impact from the facility).

In order for applicants to use an earlier ESA authorization to meet eligibility requirements: (1) The authorization must adequately address impacts for storm water discharges and BMPs from the facility on endangered and threatened species, (2) it must be current because there have been no subsequent changes in facility operations or circumstances which might impact species in ways not considered in the earlier authorization, and (3) the applicant must comply with any requirements from those authorizations to avoid or mitigate adverse effects to species. Applicants who wish to pursue this approach should carefully review documentation for those authorizations ensure that the above conditions are met.

If adverse effects are not likely, an applicant is eligible for MSGP coverage and may indicate in the NOI that species are found in proximity and provide the necessary certification. If adverse effects are likely, follow step 4 below.

Step 4: Determine if Measures can be Implemented to Avoid any Adverse Effects

If an applicant determines that adverse effects are likely, it can receive coverage if appropriate measures are undertaken to avoid or eliminate any actual or potential adverse affects prior to applying for permit coverage. These measures may involve relatively simple changes to facility operations such as re-routing a storm water discharge to

bypass an area where species are located.

At this stage, applicants may wish to contact the FWS and/or NMFS to see what appropriate measures might be suitable to avoid or eliminate adverse impacts to species.

If applicants adopt these measures, they must continue to abide by them during the course of permit coverage.

If appropriate measures are not available, the applicant is not eligible at that time for coverage under the MSGP. Applicants should contact the appropriate EPA regional office about either:

- Entering into Section 7 consultation in order to obtain MSGP coverage, or
- Obtaining an individual NPDES storm water permit.

II. County/Species List

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
ALASKA				
ALEUTIAN ISLANDS	BIRDS	GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia.	
ALEUTIANS EAST	BIRDS	EIDER, STELLER'S	POLYSTICTA STELLERI.	
ALEUTIANS, WEST	BIRDS	EIDER, STELLER'S	POLYSTICTA STELLERI.	
NORTH SLOPE	BIRDS	CURLEW, ESKIMO	Numenius borealis.	
ARIZONA				
APACHE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	MINNOW, LOACH	Tiaroga cobitis.	
		SPINEDACE, LITTLE COLORADO	Lepidomeda vittata.	
		TROUT, APACHE	Salmo apache.	
	PLANTS	SEDGE, NAVAJO	Carex specuicola.	
COCHISE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	CATFISH, YAQUI	Ictalurus pricei.	
		CHUB, YAQUI	Gila purpurea.	
		PUPFISH, DESERT	Cyprinodon macularius.	
		SHINER, BEAUTIFUL	Notropis formosus.	
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis.	
COCONINO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	CHUB, HUMPBACK	Gila cypha.	
		SPINEDACE, LITTLE COLORADO	Lepidomeda vittata.	
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS.	
	PLANTS	SEDGE, NAVAJO	Carex specuicola.	
	SNAILS	AMBERSNAIL, KANAB	OXYLOMA HAYDENI KANABENSIS.	
GILA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	MINNOW, LOACH	Tiaroga cobitis.	
		SQUAWFISH, COLORADO	Ptychocheilus lucius.	
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS.	
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis.	
GRAHAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	MINNOW, LOACH	Tiaroga cobitis.	
		PUPFISH, DESERT	Cyprinodon macularius.	
		SPIKEDACE	Meda fulgida.	
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS.	
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis.	
		TROUT, APACHE	Salmo apache.	
GREENLEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	MINNOW, LOACH	Tiaroga cobitis.	
		SPIKEDACE	Meda fulgida.	
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS.	
		TROUT, APACHE	Salmo apache.	
LA PAZ	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis.	
	FISHES	CHUB, BONYTAIL	Gila elegans.	
		PUPFISH, DESERT	Cyprinodon macularius.	
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS.	
MARICOPA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis.	
	FISHES	PUPFISH, DESERT	Cyprinodon macularius.	
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis.	
MOHAVE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis.	
	FISHES	CHUB, BONYTAIL	Gila elegans.	
		CHUB, HUMPBACK	Gila cypha.	
		CHUB, VIRGIN RIVER	Gila robusta seminuda.	
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS.	
	PLANTS	CYCLADENIA, JONES	Cycladenia humilis var. jonesii.	
	SNAILS	AMBERSNAIL, KANAB	OXYLOMA HAYDENI KANABENSIS.	
NAVAJO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	CHUB, HUMPBACK	Gila cypha.	
		MINNOW, LOACH	Tiaroga cobitis.	

II. County/Species List—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		SPINEDACE, LITTLE COLORADO	Lepidomeda vittata.	
		TROUT, APACHE	Salmo apache.	
	PLANTS	SEDGE, NAVAJO	Carex specuicola.	
PIMA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	CRUSTACEAN	TALUSSNAIL, SAN XAVIER	SONORELLA EREMITA.	
	FISHES	PUPFISH, DESERT	Cyprinodon macularius.	
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis.	
PINAL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis.	
	FISHES	MINNOW, LOACH	Tiaroga cobitis.	
		PUPFISH, DESERT	Cyprinodon macularius.	
		SPIKEDACE	Meda fulgida.	
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS.	
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis.	
SANTA CRUZ	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	CHUB, SONORA	Gila ditaenia.	
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis.	
YAVAPAI	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		FALCON, PEREGRINE	Falco peregrinus.	
	FISHES	PUPFISH, DESERT	Cyprinodon macularius.	
		SPIKEDACE	Meda fulgida.	
		SQUAWFISH, COLORADO	Ptychocheilus lucius.	
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS.	
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis.	
		TROUT, GILA	Salmo gilae.	
YUMA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		FALCON, PEREGRINE	Falco peregrinus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis.	
	FISHES	SUCKER, RAZORBACK	XYRAUCHEN TEXANUS.	
CALIFORNIA				
ALAMEDA	BIRDS	PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	IR
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, LONGHORN FAIRY	BRANCHINECTA LONGIANTENNA	IR
		SHRIMP, VERNAL POOL FAIRY	BRANCHINECTA LYNCHI	IR
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING.	ONCORHYNCHUS TSHAWYTSCHA	IR
ALPINE	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
		TROUT, PAIUTE CUTTHROAT	Salmo clarki seleniris	IR
AMADOR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
BUTTE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
	CRUSTACEAN	SHRIMP, CONSERVANCY FAIRY	BRANCINECTA CONSERVATIO	IR
		SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
CALAVERAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
COLUSA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
CONTRA COSTA	BIRDS	GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	IR
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, LONGHORN FAIRY	BRANCHINECTA LONGIANTENNA	IR
		SHRIMP, VERNAL POOL FAIRY	BRANCHINECTA LYNCHI	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
DEL NORTE	AMPHIBIANS	FROG, CALIFORNIA RED-LEGGED	RANA AURORA DRAYTONII	IR
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
EL DORADO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
FRESNO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, LITTLE KERN GOLDEN	Salmo aguabonita whitei	IR
		TROUT, PAIUTE CUTTHROAT	Salmo clarki seleniris	IR
GLENN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
HUMBOLDT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
	REPTILES	TURTLE, OLIVE (PACIFIC) RIDLEY SEA	Lepidochelys olivacea	IR
IMPERIAL	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	BUFO MICROSCAPHUS CALIFORNICUS.	IR
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		PUPFISH, DESERT	Cyprinodon macularius	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
INYO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
	FISHES	CHUB, OWENS TUI	Gila bicolor snyderi	IR
		PUPFISH, OWENS	Cyprinodon radiosus	IR
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
	PLANTS	CENTAURY, SPRING-LOVING	Centaurium namophilum var. namophi	IR
		GUMPLANT, ASH MEADOWS	Grindelia fraxinopratensis	IR
		IVESIA, ASH MEADOWS	Ivesia kingii var. eremica	IR
KERN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
KINGS	BIRDS	GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
LAKE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
	FISHES	SPLITTAIL, SACRAMENTO	POGONICHTHYS MACROLEPIDOTUS	IR
	PLANTS	COYOTE-THISTLE, LOCH LOMOND	Eryngium constancei	IR
		GOLDFIELDS, BURKE'S	Lasthenia burkei	IR
LASSEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SUCKER, MODOC	Catostomus microps	IR
LOS ANGELES	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	BUFO MICROSCAPHUS CALIFORNICUS.	IR
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, LIGHT-FOOTED CLAPPER	Rallus longirostris levipes	IR
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	IR
	FISHES	CHUB, MOHAVE TUI	Gila bicolor mohavensis	IR
		STICKLEBACK, UNARMORED THREESPINE.	Gasterosteus aculeatus williamsoni	IR
	PLANTS	BIRD'S-BEAK, SALT MARSH	Cordylanthus maritimus ssp. mariti	IR
		BROOM, SAN CLEMENTE ISLAND	Lotus dendroideus ssp. traskiae	IR
		BUSH-MALLOW, SAN CLEMENTE ISLAND.	Malacothamnus clementinus	IR
		WATERCRESS, GAMBEL'S	RORIPPA GAMBELLII	IR
MADERA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
		TROUT, PAIUTE CUTTHROAT	Salmo clarki seleniris	IR
MARIN	AMPHIBIANS	FROG, CALIFORNIA RED-LEGGED	RANA AURORA DRAYTONII	IR
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	IR

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
	CRUSTACEAN	SHRIMP, CALIFORNIA FRESHWATER	Syncaris pacifica	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
MARIPOSA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
MENDOCINO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
	MAMMALS	BEAVER, POINT ARENA MOUNTAIN	Aplodontia rufa nigra	IR
	PLANTS	GOLDFIELDS, BURKE'S	Lasthenia burkei	IR
	REPTILES	TURTLE, OLIVE (PACIFIC) RIDLEY SEA	Lepidochelys olivacea	IR
MERCED	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, CONSERVANCY FAIRY	BRANCINECTA CONSERVATIO	IR
		SHRIMP, VERNAL POOL FAIRY	BRANCHINECTA LYNCHI	IR
MODOC	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SUCKER, LOST RIVER	Deltistes luxatus	IR
		SUCKER, MODOC	Catostomus microps	IR
		SUCKER, SHORTNOSE	Chasmistes brevirostris	IR
MONO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
	FISHES	CHUB, OWENS TUI	Gila bicolor snyderi	IR
		PUPFISH, OWENS	Cyprinodon radiosus	IR
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
		TROUT, PAIUTE CUTTHROAT	Salmo clarki seleniris	IR
MONTEREY	AMPHIBIANS	SALAMANDER, SANTA CRUZ LONG-TOED.	Ambystoma macrodactylum croceum	IR
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	IR
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, VERNAL POOL FAIRY	BRANCHINECTA LYNCHI	IR
	MAMMALS	OTTER, SOUTHERN SEA	Enhydra lutris nereis	IR
	REPTILES	TURTLE, OLIVE (PACIFIC) RIDLEY SEA	Lepidochelys olivacea	IR
NAPA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, CALIFORNIA FRESHWATER	Syncaris pacifica	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
NEVADA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
ORANGE	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	BUFO MICROSCAPHUS CALIFORNICUS.	IR
	BIRDS	MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, LIGHT-FOOTED CLAPPER	Rallus longirostris levipes	IR
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	IR
	CRUSTACEAN	SHRIMP, RIVERSIDE FAIRY	STREPTOCEPHALUS WOOTTONI	IR
	PLANTS	BIRD'S-BEAK, SALT MARSH	Cordylanthus maritimus ssp. mariti	IR
PLACER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, VERNAL POOL FAIRY	BRANCHINECTA LYNCHI	IR
		SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
PLUMAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
RIVERSIDE	AMPHIBIANS	SALAMANDER, DESERT SLENDER	Batrachoseps aridus	IR
		TOAD, ARROYO SOUTHWESTERN	BUFO MICROSCAPHUS CALIFORNICUS.	IR
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR

II. County/Species List—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		PELICAN, BROWN	Pelicanus occidentalis	IR
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, RIVERSIDE FAIRY	STREPTOCEPHALUS WOOTTONI	IR
		SHRIMP, VERNAL POOL FAIRY	BRANCHINECTA LYNCHI	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		PUPFISH, DESERT	Cyprinodon macularius	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
	PLANTS	BUTTON-CELERY, SAN DIEGO	ERYNGIUM ARISTULATUM VAR. PARISHII.	IR
		GRASS, CALIFORNIA ORCUTT	ORCUTTIA CALIFORNICA	IR
		MILK-VETCH, COACHELLA VALLEY	ASTRAGALUS LENTIGINOSUS VAR. COACH.	IR
		MINT, OTAY MESA	POGOGYNE NUDIUSCULA	IR
SACRAMENTO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, VERNAL POOL FAIRY	BRANCHINECTA LYNCHI	IR
		SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
		SMELT, DELTA	HYPOMESUS TRANSPACIFICUS	IR
SAN BENITO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
SAN BERNARDINO	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	BUFO MICROSCAPHUS CALIFORNICUS.	IR
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		CHUB, MOHAVE TUI	Gila bicolor mohavensis	IR
		PUPFISH, DESERT	Cyprinodon macularius	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		STICKLEBACK, UNARMORED THREESPINE.	Gasterosteus aculeatus williamsoni	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
	PLANTS	CHECKER-MALLOW, PEDATE	Sidalcea pedata	IR
		OXYTHECA, CUSHENBURY	OXYTHECA PARISHII VAR. GOODMANIANA.	IR
		WATERCRESS, GAMBEL'S	RORIPPA GAMBELLII	IR
SAN DIEGO	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	BUFO MICROSCAPHUS CALIFORNICUS.	IR
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, LIGHT-FOOTED CLAPPER	Rallus longirostris levipes	IR
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	IR
	CRUSTACEAN	SHRIMP, RIVERSIDE FAIRY	STREPTOCEPHALUS WOOTTONI	IR
	FISHES	CHUB, MOHAVE TUI	Gila bicolor mohavensis	IR
		PUPFISH, DESERT	Cyprinodon macularius	IR
		SHRIMP, SAN DIEGO FAIRY	BRANCHINECTA SANDIEGOENSIS	IR
		STICKLEBACK, UNARMORED THREESPINE.	Gasterosteus aculeatus williamsoni	IR
	PLANTS	BIRD'S-BEAK, SALT MARSH	Cordylanthus maritimus ssp. maritimus	IR
		BUTTON-CELERY, SAN DIEGO	ERYNGIUM ARISTULATUM VAR. PARISHII.	IR
		GRASS, CALIFORNIA ORCUTT	ORCUTTIA CALIFORNICA	IR
		MINT, OTAY MESA	POGOGYNE NUDIUSCULA	IR
		MINT, SAN DIEGO MESA	Pogogyne abramsii	IR
		WATERCRESS, GAMBEL'S	RORIPPA GAMBELLII	IR
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	IR
		TURTLE, OLIVE (PACIFIC) RIDLEY SEA	Lepidochelys olivacea	IR
SAN FRANCISCO	BIRDS	GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
SAN JOAQUIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, VERNAL POOL FAIRY	BRANCHINECTA LYNCHI	IR
		SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
		SMELT, DELTA	HYPOMESUS TRANSPACIFICUS	IR
SAN LUIS OBISPO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	IR
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, LONGHORN FAIRY	BRANCHINECTA LONGIANTENNA	IR
	MAMMALS	OTTER, SOUTHERN SEA	Enhydra lutris nereis	IR
	PLANTS	BIRD'S-BEAK, SALT MARSH	Cordylanthus maritimus ssp. maritimus	IR
		SANDWORT, MARSH	ARENARIA PALUDICOLA	IR
		SEA-BLITE, CALIFORNIA	SUAEDA CALIFORNICA	IR
		THISTLE, CHORRO CREEK BOG	CIRSIUM FONTINALE VAR. OBISPOENSE.	IR
		WATERCRESS, GAMBEL'S	RORIPPA GAMBELLII	IR
SAN MATEO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	IR
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
	PLANTS	THISTLE, FOUNTAIN	CIRSIUM FONTINALE VAR. FONTINALE	IR
SANTA BARBARA	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	BUFO MICROSCAPHUS CALIFORNICUS.	IR
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, LIGHT-FOOTED CLAPPER	Rallus longirostris levipes	IR
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
	FISHES	STICKLEBACK, UNARMORED THREESPINE.	Gasterosteus aculeatus williamsoni	IR
	MAMMALS	SEAL, GUADALUPE FUR	Arctocephalus townsendi	IR
	PLANTS	BIRD'S-BEAK, SALT MARSH	Cordylanthus maritimus ssp. maritimus	IR
SANTA CLARA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	IR
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	IR
	PLANTS	THISTLE, FOUNTAIN	CIRSIUM FONTINALE VAR. FONTINALE	IR
SANTA CRUZ	AMPHIBIANS	SALAMANDER, SANTA CRUZ LONG-TOED.	Ambystoma macrodactylum croceum	IR
	BIRDS	MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
	MAMMALS	OTTER, SOUTHERN SEA	Enhydra lutris nereis	IR
SHASTA	AMPHIBIANS	FROG, CALIFORNIA RED-LEGGED	RANA AURORA DRAYTONII	IR
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	CRUSTACEAN	CRAYFISH, SHASTA	Pacifasticus fortis	IR
		SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
SIERRA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
SISKIYOU	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
	FISHES	SUCKER, LOST RIVER	Deltistes luxatus	IR
SOLANO	BIRDS	GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, VERNAL POOL FAIRY	BRANCHINECTA LYNCHI	IR
		SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
		SMELT, DELTA	HYPOMESUS TRANSPACIFICUS	IR
	PLANTS	GRASS, SOLANO	Tuctoria mucronata (=Orcuttia m.)	IR
SONOMA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, CALIFORNIA FRESHWATER	Syncaris pacifica	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
	PLANTS	BIRD'S-BEAK, PENNELL'S	CORDYLANTHUS TENUS SSP.CAPILLARI.	IR
		GOLDFIELDS, BURKE'S	Lasthenia burkei	IR
		STICKYSEED, BAKER'S	Blennosperma bakeri	IR
STANISLAUS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
SUTTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
TEHAMA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
TRINITY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
TULARE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, LITTLE KERN GOLDEN	Salmo aguabonita whitei	IR
TUOLUMNE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
VENTURA	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	BUFO MICROSCAPHUS CALIFORNICUS.	IR
	BIRDS	PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
		RAIL, LIGHT-FOOTED CLAPPER	Rallus longirostris levipes	IR
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, CONSERVANCY FAIRY	BRANCINECTA CONSERVATIO	IR
	PLANTS	BIRD'S-BEAK, SALT MARSH	Cordylanthus maritimus ssp. mariti	IR
		GRASS, CALIFORNIA ORCUTT	ORCUTTIA CALIFORNICA	IR
		WATERCRESS, GAMBEL'S	RORIPPA GAMBELLII	IR
YOLO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
	FISHES	SALMON, CHINOOK (WINTER-RUN)	ONCORHYNCHUS TSHAWYTSCHA	IR
		SMELT, DELTA	HYPOMESUS TRANSPACIFICUS	IR
YUBA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	LINDERIELLA OCCIDENTALIS	IR
		SHRIMP, VERNAL POOL FAIRY	BRANCHINECTA LYNCHI	IR
		SHRIMP, VERNAL POOL TADPOLE	LEPIDURUS PACKARDI	IR
COLORADO				
ADAMS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
ALAMOSA	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
ARCHULETA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
BACA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
BENT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
BOULDER	BIRDS	CRANE, WHOOPING	Grus americana	IR
	FISHES	TROUT, GREENBACK CUTTHROAT	Salmo clarki stomias	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
CHAFFEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
CHEYENNE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
CLEAR CREEK	FISHES	TROUT, GREENBACK CUTTHROAT	Salmo clarki stomias	IR
CONEJOS	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
COSTILLA	BIRDS	CRANE, WHOOPING	Grus americana	IR
CUSTER	FISHES	TROUT, GREENBACK CUTTHROAT	Salmo clarki stomias	IR
DELTA	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
DOLORES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
DOUGLAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, GREENBACK CUTTHROAT	Salmo clarki stomias	IR
EAGLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
EL PASO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, GREENBACK CUTTHROAT	Salmo clarki stomias	IR
FREMONT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
GARFIELD	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
GRAND	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
GUNNISON	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
HINSDALE	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
HUERFANO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, GREENBACK CUTTHROAT	Salmo clarki stomias	IR
JACKSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
KIOWA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
LA PLATA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
LAKE	FISHES	TROUT, GREENBACK CUTTHROAT	Salmo clarki stomias	IR
LARIMER	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, GREENBACK CUTTHROAT	Salmo clarki stomias	IR
LAS ANIMAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
LINCOLN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
LOGAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
MESA	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		CHUB, HUMPBACK	Gila cypha	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
MOFFAT	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		CHUB, HUMPBACK	Gila cypha	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
MONTEZUMA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
MONTROSE	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
MORGAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
OTERO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
OURAY	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
PARK	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, GREENBACK CUTTHROAT	Salmo clarki stomias	IR
	PLANTS	MUSTARD, PENLAND ALPINE FEN	Eutrema penlandii	IR
PROWERS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
PUEBLO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
RIO BLANCO	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
RIO GRANDE	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
ROUTT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
SAGUACHE	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
SAN JUAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
SAN MIGUEL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
SEDGWICK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
SUMMIT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	MUSTARD, PENLAND ALPINE FEN	Eutrema penlandii	IR
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
WELD	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
YUMA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
			.	
CONNECTICUT				
FAIRFIELD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		PLOVER, PIPING	+haradrius melodus	IR
HARTFORD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	IR
LITCHFIELD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
MIDDLESEX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		PLOVER, PIPING	+haradrius melodus	IR
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	IR
NEW HAVEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		PLOVER, PIPING	+haradrius melodus	IR
		TERN, ROSEATE	Sterna dougalli dougalli	IR
NEW LONDON	BIRDS	PLOVER, PIPING	+haradrius melodus	IR
WINDHAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
DISTRICT OF COLUMBIA				
DISTRICT OF COLUMBIA.	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	CRUSTACEAN	AMPHIPOD, HAY'S SPRING	Stygobromus hayi.	
DELAWARE				
KENT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	FF
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	FF
	PLANTS	PINK, SWAMP	Helonias bullata	FF
	REPTILES	TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	FF
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	FF
		TURTLE, LOGGERHEAD SEA	Caretta caretta	FF
NEW CASTLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	FF
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	FF
	PLANTS	PINK, SWAMP	Helonias bullata	FF
SUSSEX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	FF
		PLOVER, PIPING	+haradrius melodus	FF
	PLANTS	PINK, SWAMP	Helonias bullata	FF
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	FF
		TURTLE, LOGGERHEAD SEA	Caretta caretta	FF
FLORIDA				
ALACHUA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	CRUSTACEAN	SHRIMP, SQUIRREL CHIMNEY CAVE	Palaemonetes cummingi.	
BAKER	BIRDS	STORK, WOOD	Mycteria americana.	
BAY	BIRDS	PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	BUTTERWORT, GODFREY'S	PINGUICULA IONANTHA.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
BRADFORD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
BREVARD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	SEAGRASS, JOHNSON'S	Halophila johnsonii.	
	REPTILES	SNAKE, ATLANTIC SALT MARSH	Nerodia fasciata taeniata.	
		TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
BROWARD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	SEAGRASS, JOHNSON'S	Halophila johnsonii.	
	REPTILES	CROCODILE, AMERICAN	Crocodylus acutus.	
		TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
CALHOUN	BIRDS	STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
CHARLOTTE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
CITRUS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
CLAY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
COLLIER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	CROCODILE, AMERICAN	Crocodylus acutus.	
		TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
COLUMBIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
DADE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	SEAGRASS, JOHNSON'S	Halophila johnsonii.	
	REPTILES	CROCODILE, AMERICAN	Crocodylus acutus.	
		TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
DE SOTO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
DIXIE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
DUVAL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
ESCAMBIA	BIRDS	PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
FLAGLER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
FRANKLIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	PLANTS	BEAUTY, HARPER'S	Harperocallis flava.	
		BUTTERWORT, GODFREY'S	PINGUICULA IONANTHA.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
GADSDEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
GILCHRIST	BIRDS	STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
GLADES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	

II. County/Species List—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
GULF	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	BUTTERWORT, GODFREY'S	PINGUICULA IONANTHA.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
HAMILTON	BIRDS	STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
HARDEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
HENDRY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
HERNANDO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	BELLFLOWER, BROOKSVILLE	Campanula robinsiae.	
		WATER-WILLOW, COOLEY'S	Justicia cooleyi.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
HIGHLANDS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
HILLSBOROUGH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
HOLMES	BIRDS	STORK, WOOD	Mycteria americana.	
INDIAN RIVER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	SEAGRASS, JOHNSON'S	Halophila johnsonii.	
	REPTILES	SNAKE, ATLANTIC SALT MARSH	Nerodia fasciata taeniata.	
		TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
JACKSON	BIRDS	STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	PLANTS	GOOSEBERRY, MICCOSUKEE (FLORIDA).	Ribes echinellum.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
LAFAYETTE	BIRDS	STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
LAKE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
LEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	CROCODILE, AMERICAN	Crocodylus acutus.	
		TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
LEON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
LEVY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
LIBERTY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	PLANTS	BEAUTY, HARPER'S	Harperocallis flava.	
		BUTTERWORT, GODFREY'S	PINGUICULA IONANTHA.	
MADISON	BIRDS	STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
MANATEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
MARION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
MARTIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	SEAGRASS, JOHNSON'S	Halophila johnsonii.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
MONROE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
		TERN, ROSEATE	Sterna dougalli dougalli.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	CROCODILE, AMERICAN	Crocodylus acutus.	
		TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
NASSAU	BIRDS	STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
OKALOOSA	BIRDS	PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	DARTER, OKALOOSA	Etheostoma okaloosae.	
		STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
OKEECHOBEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
ORANGE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
OSCEOLA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
PALM BEACH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	GOURD, OKEECHOBEE	CUCURBITA OKEECHEOBEENSIS.	
		SEAGRASS, JOHNSON'S	Halophila johnsonii.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
PASCO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
PINELLAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
POLK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
PUTNAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
SANTA ROSA	BIRDS	PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
SARASOTA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
SEMINOLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
ST. JOHNS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
ST. LUCIE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	SEAGRASS, JOHNSON'S	Halophila johnsonii.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
SUMTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		STORK, WOOD	Mycteria americana.	
SUWANNEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
TAYLOR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
UNION	BIRDS	STORK, WOOD	Mycteria americana.	
VOLUSIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	SNAKE, ATLANTIC SALT MARSH	Nerodia fasciata taeniata.	
		TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
WAKULLA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
WALTON	BIRDS	PLOVER, PIPING	+haradrius melodus.	
		STORK, WOOD	Mycteria americana.	
	FISHES	DARTER, OKALOOSA	Etheostoma okaloosae.	
		STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	PLANTS	MEADOWRUE, COOLEY'S	Thalictrum cooleyi.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
WASHINGTON	BIRDS	STORK, WOOD	Mycteria americana.	
IDAHO				
ADA	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING.	ONCORHYNCHUS TSHAWYTSCHA.	
ADAMS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING.	ONCORHYNCHUS TSHAWYTSCHA.	
BANNOCK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
BEAR LAKE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
BENEWAH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
BINGHAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
BLAINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK	ONCORHYNCHUS TSHAWSTSCHA.	
		SALMON, CHINOOK (SNAKE RIVER SPRING.	ONCORHYNCHUS TSHAWYTSCHA.	
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA.	
BOISE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
BONNER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis).	
BONNEVILLE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
BOUNDARY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis).	
BUTTE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
CAMAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
CANYON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING.	ONCORHYNCHUS TSHAWYTSCHA.	
CARIBOU	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
CASSIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING.	ONCORHYNCHUS TSHAWYTSCHA.	
CLARK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
CLEARWATER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK	ONCORHYNCHUS TSHAWSTSCHA.	
		SALMON, CHINOOK (SNAKE RIVER SPRING.	ONCORHYNCHUS TSHAWYTSCHA.	
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis).	
CUSTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK	ONCORHYNCHUS TSHAWSTSCHA.	
		SALMON, CHINOOK (SNAKE RIVER SPRING.	ONCORHYNCHUS TSHAWYTSCHA.	
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA.	
ELMORE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	CLAMS	LIMPET, BANBURY SPRINGS	Lanx n. sp..	
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
	SNAILS	SNAIL, BLISS RAPIDS	Family Hydrobiidae n. sp..	
		SNAIL, SNAKE RIVER PHYSA	Physa natricina.	
		SNAIL, UTAH VALVATA	Valvata utahensis.	
		SPRINGSNAIL, IDAHO	Fontelicella idahoensis.	
FRANKLIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
FREMONT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis).	
GEM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
GOODING	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	CLAMS	LIMPET, BANBURY SPRINGS	Lanx n. sp..	
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
	SNAILS	SNAIL, BLISS RAPIDS	Family Hydrobiidae n. sp..	
		SNAIL, SNAKE RIVER PHYSA	Physa natricina.	
		SNAIL, UTAH VALVATA	Valvata utahensis.	
IDAHO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK	ONCORHYNCHUS TSHAWSTSCHA.	
		SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA.	
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis).	
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
JEROME	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
KOOTENAI	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	HOWELLIA, WATER	HOWELLIA AQUATILIS.	
LATAH	PLANTS	HOWELLIA, WATER	HOWELLIA AQUATILIS.	
LEMHI	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK	ONCORHYNCHUS TSHAWSTSCHA.	
		SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
LEWIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK	ONCORHYNCHUS TSHAWSTSCHA.	
		SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA.	
MADISON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
MINIDOKA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
NEZ PERCE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK	ONCORHYNCHUS TSHAWSTSCHA.	
		SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA.	
OWYHEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
	SNAILS	SNAIL, BRUNEAU HOT SPRINGS	Bruneau Hot Springs snail (Genus/s.	
		SNAIL, SNAKE RIVER PHYSA	Physa natricina.	
		SPRINGSNAIL, IDAHO	Fontelicella idahoensis.	
PAYETTE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
POWER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
	SNAILS	SNAIL, UTAH VALVATA	Valvata utahensis.	
SHOSHONE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis).	
TETON	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis).	
TWIN FALLS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
	SNAILS	SNAIL, SNAKE RIVER PHYSA	Physa natricina.	
VALLEY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SALMON, CHINOOK	ONCORHYNCHUS TSHAWSTSCHA.	
		SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	

II. County/Species List—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING, SUMMER).	ONCORHYNCHUS TSHAWYTSCHA.	
			.	
LOUISIANA				
			.	
ASCENSION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	CLAMS	HEELSPLITTER, INFLATED	POTAMILUS INFLATUS.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
		STURGEON, PALLID	Scaphirhynchus albus.	
ASSUMPTION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
AVOYELLES	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
BIENVILLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
BOSSIER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
CADDO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
CALDWELL	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
CAMERON	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
CATAHOULA	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
CLAIBORNE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
CONCORDIA	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
DE SOTO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
EAST BATON ROUGE.	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	CLAMS	HEELSPLITTER, INFLATED	POTAMILUS INFLATUS.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
		STURGEON, PALLID	Scaphirhynchus albus.	
EAST CARROLL	BIRDS	TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
	BIRDS	TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
FRANKLIN	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
GRANT	CLAMS	PEARLSHELL, LOUISIANA	Margaritifera hembeli.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
IBERIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
IBERVILLE	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
LA SALLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
LAFOURCHE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
LIVINGSTON	CLAMS	HEELSPLITTER, INFLATED	POTAMILUS INFLATUS.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
MADISON	BIRDS	TERN, CALIFORNIA LEAST	Sterna antillarum browni.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
MOREHOUSE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
NATCHITOCHES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
ORLEANS	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
		STURGEON, PALLID	Scaphirhynchus albus.	
OUACHITA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
PLAQUEMINES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		PLOVER, PIPING	+haradrius melodus.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
POINTE COUPEE	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
RAPIDES	CLAMS	PEARLSHELL, LOUISIANA	Margaritifera hembeli.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
RED RIVER	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
RICHLAND	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
SABINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
ST. BERNARD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
		STURGEON, PALLID	Scaphirhynchus albus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
ST. CHARLES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
		STURGEON, PALLID	Scaphirhynchus albus.	
ST. JAMES	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
ST. JOHN THE BAPTIST.	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
		STURGEON, PALLID	Scaphirhynchus albus.	
ST. LANDRY	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
ST. MARTIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
ST. MARY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
ST. TAMMANY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	REPTILES	TURTLE, RINGED SAWBACK	Graptemys oculifera.	
TANGIPAHOA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
TENSAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
TERREBONNE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
UNION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
VERMILION	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
WASHINGTON	FISHES	STURGEON, GULF	Acipenser oxyrhynchus desotoi.	
	REPTILES	TURTLE, RINGED SAWBACK	Graptemys oculifera.	
WEBSTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
WEST BATON ROUGE.	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
WEST CARROLL	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
WEST FELICIANA	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
WINN	FISHES	STURGEON, PALLID	Scaphirhynchus albus.	
MASSACHUSETTS				
BARNSTABLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, ROSEATE	Sterna dougalli dougalli.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
BRISTOL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
DUKES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
ESSEX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
FRANKLIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum.	
	PLANTS	BULRUSH, NORTHEASTERN (=BARBED BRISTLE.	Scirpus ancistrochaetus.	
HAMPDEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum.	
HAMPSHIRE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum.	
MIDDLESEX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
NANTUCKET	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
NORFOLK	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
PLYMOUTH	BIRDS	CURLEW, ESKIMO	Numenius borealis.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, ROSEATE	Sterna dougalli dougalli.	
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
		TURTLE, PLYMOUTH RED-BELLIED	Pseudemys (Chrysemys) rubriventris.	
SUFFOLK	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
WORCESTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
MAINE				
ANDROSCOGGIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
AROOSTOOK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	ORCHID, EASTERN PRAIRIE FRINGED	Platanthera leucophaea.	
CUMBERLAND	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum.	
HANCOCK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
KENNEBEC	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
KNOX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
LINCOLN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
PENOBSCOT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
PISCATAQUIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
SAGADAHOC	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum.	
SOMERSET	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
WALDO	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum.	
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, ROSEATE	Sterna dougalli dougalli.	
YORK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		PLOVER, PIPING	+haradrius melodus.	
NORTHERN MARIANA ISLANDS				
WORCESTER	BIRDS	MALLARD, MARIANA	Anas oustaleti.	
		MEGAPODE, MICRONESIAN (LA PEROUSE'S).	Megapodius laperouse.	
	REPTILES	CROCODILE, SALTWATER	CROCODYLUS POROSUS.	
NEW HAMPSHIRE				
BELKNAP	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
CHESHIRE	CLAMS	MUSSEL, DWARF WEDGE	Alasmidonta heterodon.	
COOS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
GRAFTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
HILLSBOROUGH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
MERRIMACK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
ROCKINGHAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
SULLIVAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	CLAMS	MUSSEL, DWARF WEDGE	Alasmidonta heterodon.	
	PLANTS	MILK-VETCH, JESUP'S	Astragalus robbinsii var. jesupi.	
			.	
NEW MEXICO				
			.	
BERNALILLO	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	MINNOW, RIO GRANDE SILVERY	HYBOGNATHUS AMARUS.	
CATRON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	MINNOW, LOACH	Tiaroga cobitis.	
		SPIKEDACE	Meda fulgida.	
		TROUT, GILA	Salmo gilae.	
CHAVES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
	FISHES	GAMBUSIA, PECOS	Gambusia nobilis.	
		SHINER, PECOS BLUNTNOSE	Notropis simus peconsensis.	
COLFAX	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
CURRY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
DE BACA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SHINER, PECOS BLUNTNOSE	Notropis simus peconsensis.	
DONA ANA	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
EDDY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
	FISHES	GAMBUSIA, PECOS	Gambusia nobilis.	
		SHINER, PECOS BLUNTNOSE	Notropis simus peconsensis.	
GRANT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	CHUB, CHIHUAHUA	Gila nigrescens.	
		MINNOW, LOACH	Tiaroga cobitis.	
		SHINER, BEAUTIFUL	Notropis formosus.	
		SPIKEDACE	Meda fulgida.	
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis.	
		TROUT, GILA	Salmo gilae.	
GUADALUPE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
HARDING	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
HIDALGO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SPIKEDACE	Meda fulgida.	
LEA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
LINCOLN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
LOS ALAMOS	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
LUNA	BIRDS	CRANE, WHOOPING	Grus americana.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SHINER, BEAUTIFUL	Notropis formosus.	
MCKINLEY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
MORA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
OTERO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	THISTLE, SACRAMENTO MOUNTAINS	Cirsium vinaceum.	
OTHER–999	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
QUAY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
RIO ARRIBA	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
ROOSEVELT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
SAN JUAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	SQUAWFISH, COLORADO	Ptychocheilus lucius.	
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS.	
SAN MIGUEL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
SANDOVAL	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	MINNOW, RIO GRANDE SILVERY	HYBOGNATHUS AMARUS.	
SANTA FE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
SIERRA	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	TROUT, GILA	Salmo gilae.	
SOCORRO	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
	CRUSTACEAN	ISOPOD, SOCORRO	Thermosphaeroma (=Exosphaeroma) thermophilus.	
	FISHES	MINNOW, RIO GRANDE SILVERY	HYBOGNATHUS AMARUS.	
	SNAILS	SPRINGSNAIL, ALAMOSA	Tryonia alamosae.	
		SPRINGSNAIL, SOCORRO	Pyrgulopsis neomexicana.	
TAOS	BIRDS	CRANE, WHOOPING	Grus americana.	
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
TORRANCE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
UNION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
VALENCIA	BIRDS	CRANE, WHOOPING	Grus americana.	
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	MINNOW, RIO GRANDE SILVERY	HYBOGNATHUS AMARUS.	
NEVADA				
CARSON CITY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
CHURCHILL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
CLARK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		CHUB, VIRGIN RIVER	Gila robusta seminuda	IR
		DACE, MOAPA	Moapa coriacea	IR
		KILLIFISH, PAHRUMP	EMPETRICHYTHYS LATOS	IR
		PUPFISH, DEVILS HOLE	Cyprinodon diabolis	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
		WOUNDFIN	Plagopterus argentissimus	IR
DOUGLAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
ELKO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	DACE, CLOVER VALLEY SPECKLED	Rhinichthys osculus oligoporous	IR
		DACE, INDEPENDENCE VALLEY SPECKLED.	Rhinichthys osculus lethoporous	IR
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
EUREKA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
HUMBOLDT	FISHES	DACE, DESERT	Eremichthys acros	IR
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
LANDER	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
LINCOLN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, PAHRANAGAT ROUNDTAIL	Gila robusta jordani	IR
		SPINEDACE, BIG SPRING	Lepidomeda mollispinis pratensis	IR
		SPRINGFISH, HIKO WHITE RIVER	Crenichthys baileyi grandis	IR
		SPRINGFISH, WHITE RIVER	Crenichthys baileyi baileyi	IR

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[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
LYON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
MINERAL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SPRINGFISH, HIKO WHITE RIVER	Crenichthys baileyi grandis	IR
		SPRINGFISH, RAILROAD VALLEY	Crenichthys nevadae	IR
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
	PLANTS	MILK-VETCH, SODAVILLE	ASTRAGALUS LENTIGINOSUS VAR. SESLQ MIMETRALIS.	IR
NYE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	POOLFISH, PAHRUMP	Empetrichthys latos	IR
		PUPFISH, ASH MEADOWS AMARGOSA	Cyprinodon nevadensis mionectes	IR
		PUPFISH, DEVILS HOLE	Cyprinodon diabolis	IR
		PUPFISH, WARM SPRINGS	Cyprinodon nevadensis pectoralis	IR
		SPINEDACE, WHITE RIVER	Lepidomeda albivallis	IR
		SPRINGFISH, RAILROAD VALLEY	Crenichthys nevadae	IR
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
	INSECTS	NAUCORID, ASH MEADOWS	Ambrysus amargosus	IR
	PLANTS	CENTAURY, SPRING-LOVING	Centaurium namophilum var. namophilum	IR
		GUMPLANT, ASH MEADOWS	Grindelia fraxinopratensis	IR
		IVESIA, ASH MEADOWS	Ivesia kingii var. eremica	IR
PERSHING	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
STOREY	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
WASHOE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CUI-UI	Chasmistes cujus	IR
		SUCKER, WARNER	Catostomus warnerensis	IR
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
	PLANTS	BUCKWHEAT, STEAMBOAT	Eriogonum ovalifolium var. williamsiae	IR
WHITE PINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	KILLIFISH, PAHRUMP	EMPETRICHYTHYS LATOS	IR
		SPINEDACE, WHITE RIVER	Lepidomeda albivallis	IR
OKLAHOMA				
ADAIR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
ALFALFA	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
ATOKA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
BEAVER	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
BECKHAM	BIRDS	CRANE, WHOOPING	Grus americana.	
BLAINE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
BRYAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
	REPTILES	ALLIGATOR, AMERICAN	Alligator mississippiensis.	
CADDO	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
CANADIAN	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	

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[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
CARTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
CHEROKEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
CHOCTAW	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	ORCHID, EASTERN PRAIRIE FRINGED	Platanthera leucophaea.	
CIMARRON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
	FISHES	SHINER, ARKANSAS RIVER	NOTROPIS GIRARDI.	
CLEVELAND	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
COMANCHE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
COTTON	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
CRAIG	FISHES	CAVEFISH, OZARK	Amblyopsis rosae.	
		MADTOM, NEOSHO	Noturus placidus.	
	PLANTS	ORCHID, WESTERN PRAIRIE FRINGED	Platanthera praeclara.	
CREEK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
CUSTER	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
DELAWARE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	CAVEFISH, OZARK	Amblyopsis rosae.	
DEWEY	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
ELLIS	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
GARFIELD	BIRDS	CRANE, WHOOPING	Grus americana.	
GARVIN	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
GRADY	BIRDS	CRANE, WHOOPING	Grus americana.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	

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[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
GRANT	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
GREER	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
HARMON	BIRDS	CRANE, WHOOPING	Grus americana.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
HARPER	BIRDS	CRANE, WHOOPING	Grus americana.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
HASKELL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
HUGHES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
JACKSON	BIRDS	CRANE, WHOOPING	Grus americana.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
JEFFERSON	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
JOHNSTON	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
KAY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
KINGFISHER	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
KIOWA	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
LE FLORE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
	CLAMS	ROCK-POCKETBOOK, OUACHITA	Arkansia (=Arcidens) wheeleri.	

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[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		ROCK-POCKETBOOK, OUACHITA (=WHEELER'S PM).	Arkansia (=Arcidens) wheeleri.	
	FISHES	DARTER, LEOPARD	Percina pantherina.	
LINCOLN	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
LOGAN	BIRDS	CRANE, WHOOPING	Grus americana.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
LOVE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
MAJOR	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
MARSHALL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
MAYES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	CAVEFISH, OZARK	Amblyopsis rosae.	
MCCLAIN	BIRDS	CRANE, WHOOPING	Grus americana.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
MCCURTAIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
	FISHES	DARTER, LEOPARD	Percina pantherina.	
	REPTILES	ALLIGATOR, AMERICAN	Alligator mississippiensis.	
MCINTOSH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
MURRAY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
MUSKOGEE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
NOBLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
NOWATA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
OKLAHOMA	BIRDS	CRANE, WHOOPING	Grus americana.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
OSAGE	BIRDS	CRANE, WHOOPING	Grus americana.	
		CURLEW, ESKIMO	Numenius borealis.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
OTTAWA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	CAVEFISH, OZARK	Amblyopsis rosae.	
		MADTOM, NEOSHO	Noturus placidus.	
PAWNEE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
PAYNE	BIRDS	CRANE, WHOOPING	Grus americana.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
PITTSBURG	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
PONTOTOC	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
POTTAWATOMIE	BIRDS	TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
PUSHMATAHA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	CLAMS	ROCK-POCKETBOOK, OUACHITA	Arkansia (=Arcidens) wheeleri.	
		ROCK-POCKETBOOK, OUACHITA (=WHEELER'S PM).	Arkansia (=Arcidens) wheeleri.	
	FISHES	DARTER, LEOPARD	Percina pantherina.	
ROGER MILLS	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
ROGERS	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
	PLANTS	ORCHID, WESTERN PRAIRIE FRINGED	Platanthera praeclara.	
SEMINOLE	BIRDS	TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
SEQUOYAH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
STEPHENS	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
TEXAS	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
TILLMAN	BIRDS	CRANE, WHOOPING	Grus americana.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
TULSA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
WAGONER	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
WASHINGTON	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
WASHITA	BIRDS	CRANE, WHOOPING	Grus americana.	
WOODS	BIRDS	CRANE, WHOOPING	Grus americana.	
		CURLEW, ESKIMO	Numenius borealis.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
WOODWARD	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
OREGON				
BAKER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER.	ONCORHYNCHUS TSHAWYTSCHA	IR
BENTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
	FISHES	CHUB, OREGON	OREGONICHTHYS CRAMERI	IR
	PLANTS	CHECKER-MALLOW, NELSON'S	SIDALCEA NELSONIANA	IR
		LOMATIUM, BRADSHAW'S	Lomatium bradshawii	IR
CLACKAMAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, OREGON	OREGONICHTHYS CRAMERI	IR
	PLANTS	CHECKER-MALLOW, NELSON'S	SIDALCEA NELSONIANA	IR
CLATSOP	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
COLUMBIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR
COOS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
CROOK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
CURRY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
DESCHUTES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
DOUGLAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
GILLIAM	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR
GRANT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
HARNEY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, BORAX LAKE	Gila boraxobius	IR
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
HOOD RIVER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR
JACKSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
JOSEPHINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
KLAMATH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SUCKER, LOST RIVER	Deltistes luxatus	IR
		SUCKER, SHORTNOSE	Chasmistes brevirostris	IR
LAKE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, HUTTON TUI	Gila bicolor ssp.	IR
		DACE, FOSKETT SPECKLED	Rhinichthys osculus ssp.	IR
		SUCKER, WARNER	Catostomus warnerensis	IR
LANE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
	FISHES	CHUB, OREGON	OREGONICHTHYS CRAMERI	IR
	PLANTS	LOMATIUM, BRADSHAW'S	Lomatium bradshawii	IR
LINCOLN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
LINN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, OREGON	OREGONICHTHYS CRAMERI	IR
	PLANTS	CHECKER-MALLOW, NELSON'S	SIDALCEA NELSONIANA	IR
		LOMATIUM, BRADSHAW'S	Lomatium bradshawii	IR
MALHEUR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER.	ONCORHYNCHUS TSHAWYTSCHA	IR
MARION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
	FISHES	CHUB, OREGON	OREGONICHTHYS CRAMERI	IR
	PLANTS	CHECKER-MALLOW, NELSON'S	SIDALCEA NELSONIANA	IR
		LOMATIUM, BRADSHAW'S	Lomatium bradshawii	IR
MORROW	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR
MULTNOMAH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR
POLK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
	FISHES	CHUB, OREGON	OREGONICHTHYS CRAMERI	IR

II. County/Species List—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
	PLANTS	CHECKER-MALLOW, NELSON'S	SIDALCEA NELSONIANA	IR
		LOMATIUM, BRADSHAW'S	Lomatium bradshawii	IR
SHERMAN	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR
TILLAMOOK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR
		PELICAN, BROWN	Pelicanus occidentalis	IR
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR
	PLANTS	CHECKER-MALLOW, NELSON'S	SIDALCEA NELSONIANA	IR
UMATILLA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR
UNION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER.	ONCORHYNCHUS TSHAWYTSCHA	IR
WALLOWA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER.	ONCORHYNCHUS TSHAWYTSCHA	IR
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR
WASCO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	CHECKER-MALLOW, NELSON'S	SIDALCEA NELSONIANA	IR
WHEELER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
YAMHILL	PLANTS	CHECKER-MALLOW, NELSON'S	SIDALCEA NELSONIANA	IR
PUERTO RICO				
ADJUNTAS	AMPHIBIANS	COQUI, GOLDEN	Eleutherodactylus jasperi.	
AGUADA	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
AGUADILLA	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
ANASCO	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
ARECIBO	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	PALMA DE MANACA	Calyptronoma rivalis.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
ARROYA	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
BARCELONETA	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
CABO ROJO	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	COBANA NEGRA	Stahlia monosperma.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
CAMUY	PLANTS	PALMA DE MANACA	Calyptronoma rivalis.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
CAROLINA	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
CATANO	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
CEIBA	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
CIALES	PLANTS	FERN, THELYPTERIS INABONENSIS	THELYPTERIS INABONENSIS.	
		FERN, THELYPTERIS YAUCOENSIS	THELYPTERIS YAUCOENSIS.	
COAMO	AMPHIBIANS	TOAD, PUERTO RICAN CRESTED	Peltophryne lemur.	
CULEBRA	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
		TERN, ROSEATE	Sterna dougalli dougalli.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	

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[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
DORADO	AMPHIBIANS	TOAD, PUERTO RICAN CRESTED	Peltophryne lemur.	
	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
FAJARDO	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
GUANICA	AMPHIBIANS	TOAD, PUERTO RICAN CRESTED	Peltophryne lemur.	
	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
GUAYAMA	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
GUAYANILLA	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
HATILLO	PLANTS	FERN, THELYPTERIS VERECUNDA	THELYPTERIS VERECUNDA.	
		PALMA DE MANACA	Calyptronoma rivalis.	
HUMACAO	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	REPTILES	TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
ISABELA	AMPHIBIANS	TOAD, PUERTO RICAN CRESTED	Peltophryne lemur.	
	REPTILES	TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
JUANA DIAZ	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
LAJAS	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
		TERN, ROSEATE	Sterna dougalli dougalli.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	COBANA NEGRA	Stahlia monosperma.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
LOIZA	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
LUQUILLO	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	COBANA NEGRA	Stahlia monosperma.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
MANATI	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
MAUNABO	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
MAYAGUEZ	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
NAGUABO	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
PATILLAS	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
PENUELAS	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
PONCE	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	FERN, THELYPTERIS INABONENSIS	THELYPTERIS INABONENSIS.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
QUEBRADILLAS	AMPHIBIANS	TOAD, PUERTO RICAN CRESTED	Peltophryne lemur.	
	PLANTS	FERN, THELYPTERIS VERECUNDA	THELYPTERIS VERECUNDA.	
		PALMA DE MANACA	Calyptronoma rivalis.	
RINCON	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
RIO GRANDE	PLANTS	COBANA NEGRA	Stahlia monosperma.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
SALINAS	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
SAN JUAN	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
SAN SEBASTIAN	PLANTS	FERN, THELYPTERIS VERECUNDA	THELYPTERIS VERECUNDA.	
		PALMA DE MANACA	Calyptronoma rivalis.	
SANTA ISABEL	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
TOA BAJA	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
UTUADO	PLANTS	PALMA DE MANACA	Calyptronoma rivalis.	
VEGA ALTA	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
VEGA BAJA	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
VIEQUES	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
	PLANTS	COBANA NEGRA	Stahlia monosperma.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
YABUCOA	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus.	
YAUCO	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
	PLANTS	FERN, THELYPTERIS YAUCOENSIS	THELYPTERIS YAUCOENSIS.	
	REPTILES	TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
RHODE ISLAND				
KENT	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	IR
NEWPORT	BIRDS	PLOVER, PIPING	+haradrius melodus	IR
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	IR
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
		PLOVER, PIPING	+haradrius melodus	IR
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	IR
TEXAS				
ANDERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
ANGELINA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
ARANSAS	BIRDS	CRANE, WHOOPING	Grus americana.	
		CURLEW, ESKIMO	Numenius borealis.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
ARCHER	BIRDS	CRANE, WHOOPING	Grus americana.	
AUSTIN	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
BAILEY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
BASTROP	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
BAYLOR	BIRDS	CRANE, WHOOPING	Grus americana.	
BEE	BIRDS	CRANE, WHOOPING	Grus americana.	
BELL	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
BEXAR	BIRDS	CRANE, WHOOPING	Grus americana.	
BLANCO	BIRDS	CRANE, WHOOPING	Grus americana.	
BOSQUE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
BOWIE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
BRAZORIA	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
BRAZOS	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii.	
BREWSTER	FISHES	GAMBUSIA, BIG BEND	Gambusia gaigei.	
BROWN	BIRDS	CRANE, WHOOPING	Grus americana.	
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata.	
BURLESON	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii.	
BURNET	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
CALDWELL	BIRDS	CRANE, WHOOPING	Grus americana.	
	FISHES	DARTER, FOUNTAIN	Etheostoma fonticola.	
CALHOUN	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
CAMERON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	FISHES	MINNOW, RIO GRANDE SILVERY	HYBOGNATHUS AMARUS.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
CASS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
CHAMBERS	BIRDS	CURLEW, ESKIMO	Numenius borealis.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
CHEROKEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
CHILDRESS	BIRDS	CRANE, WHOOPING	Grus americana.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
CLAY	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
COKE	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata.	
COLEMAN	BIRDS	CRANE, WHOOPING	Grus americana.	
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata.	
COLLINGSWORTH	BIRDS	CRANE, WHOOPING	Grus americana.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF**
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
COLORADO	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
COMAL	AMPHIBIANS	SALAMANDER, SAN MARCOS	Eurycea nana.	
	FISHES	DARTER, FOUNTAIN	Etheostoma fonticola.	
COMANCHE	BIRDS	CRANE, WHOOPING	Grus americana.	
CONCHO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata.	
COOKE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
CORYELL	BIRDS	CRANE, WHOOPING	Grus americana.	
DE WITT	BIRDS	CRANE, WHOOPING	Grus americana.	
EDWARDS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	SNOWBELLS, TEXAS	Styrax texana.	
ELLIS	BIRDS	CRANE, WHOOPING	Grus americana.	
ERATH	BIRDS	CRANE, WHOOPING	Grus americana.	
FALLS	BIRDS	CRANE, WHOOPING	Grus americana.	
FANNIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
FAYETTE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
FORT BEND	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
FREESTONE	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii.	
GALVESTON	BIRDS	CURLEW, ESKIMO	Numenius borealis.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
GILLESPIE	BIRDS	CRANE, WHOOPING	Grus americana.	
GOLIAD	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
GONZALES	BIRDS	CRANE, WHOOPING	Grus americana.	
GRAYSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PLOVER, PIPING	+haradrius melodus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
GREGG	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
GRIMES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii.	
GUADALUPE	BIRDS	CRANE, WHOOPING	Grus americana.	
HALL	BIRDS	TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
	BIRDS	TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
HAMILTON	BIRDS	CRANE, WHOOPING	Grus americana.	
HARDEMAN	BIRDS	CRANE, WHOOPING	Grus americana.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	

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State/County	Group name	Inventory name	Scientific name	IR/FF*
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
HARDIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
HARRISON	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
HASKELL	BIRDS	CRANE, WHOOPING	Grus americana.	
HAYS	AMPHIBIANS	SALAMANDER, SAN MARCOS	Eurycea nana.	
		SALAMANDER, TEXAS BLIND	Typhlomolge rathbuni.	
	BIRDS	CRANE, WHOOPING	Grus americana.	
	FISHES	DARTER, FOUNTAIN	Etheostoma fonticola.	
		GAMBUSIA, SAN MARCOS	Gambusia georgei.	
	PLANTS	WILD-RICE, TEXAS	Zizania texana.	
HEMPHILL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
HENDERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
HILL	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
HOOD	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
HOUSTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
HUNT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
HUTCHINSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
IRION	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata.	
JACKSON	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
JASPER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii.	
JEFF DAVIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	FISHES	GAMBUSIA, PECOS	Gambusia nobilis.	
		PUPFISH, COMANCHE SPRINGS	Cyprinodon elegans.	
	PLANTS	PONDWEED, LITTLE AGUJA CREEK	Potamogeton clystocarpus.	
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
JOHNSON	BIRDS	CRANE, WHOOPING	Grus americana.	
JONES	BIRDS	CRANE, WHOOPING	Grus americana.	
KARNES	BIRDS	CRANE, WHOOPING	Grus americana.	
KENEDY	BIRDS	CURLEW, ESKIMO	Numenius borealis.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
KIMBLE	PLANTS	SNOWBELLS, TEXAS	Styrax texana.	
KING	BIRDS	CRANE, WHOOPING	Grus americana.	
KLEBERG	BIRDS	CURLEW, ESKIMO	Numenius borealis.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	

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[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
KNOX	BIRDS	CRANE, WHOOPING	Grus americana.	
LAMAR	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
LAMPASAS	BIRDS	CRANE, WHOOPING	Grus americana.	
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata.	
LAVACA	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
	BIRDS	CRANE, WHOOPING	Grus americana.	
LEE	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
	BIRDS	CRANE, WHOOPING	Grus americana.	
LEON	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii.	
LIBERTY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
LIMESTONE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
LIPSCOMB	BIRDS	CRANE, WHOOPING	Grus americana.	
LLANO	BIRDS	CRANE, WHOOPING	Grus americana.	
MADISON	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii.	
MARION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
MASON	BIRDS	CRANE, WHOOPING	Grus americana.	
MATAGORDA	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
MAVERICK	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata.	
MENARD	FISHES	GAMBUSIA, CLEAR CREEK	Gambusia heterochir.	
MIDLAND	BIRDS	CRANE, WHOOPING	Grus americana.	
MILAM	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
MILLS	BIRDS	CRANE, WHOOPING	Grus americana.	
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata.	
MONTAGUE	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
MONTGOMERY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
MOORE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
MORRIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
NACOGDOCHES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
NEWTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
NUECES	BIRDS	PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
OCHILTREE	BIRDS	CRANE, WHOOPING	Grus americana.	
ORANGE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
PALO PINTO	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
PANOLA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
PARKER	BIRDS	CRANE, WHOOPING	Grus americana.	
PECOS	FISHES	GAMBUSIA, PECOS	Gambusia nobilis.	
		PUPFISH, LEON SPRINGS	Cyprinodon bovinus.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
POLK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
POTTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
RANDALL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
REAL	PLANTS	SNOWBELLS, TEXAS	Styrax texana.	
RED RIVER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
REEVES	FISHES	GAMBUSIA, PECOS	Gambusia nobilis.	
		PUPFISH, COMANCHE SPRINGS	Cyprinodon elegans.	
REFUGIO	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
ROBERTS	BIRDS	TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
ROBERTSON	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis.	
	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii.	
RUNNELS	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata.	
RUSK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
SABINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
SAN AUGUSTINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
SAN JACINTO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
SAN PATRICIO	BIRDS	CRANE, WHOOPING	Grus americana.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
SAN SA BA	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata.	
SHACKELFORD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
SHELBY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
SOMERVELL	BIRDS	CRANE, WHOOPING	Grus americana.	
STARR	BIRDS	TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
STERLING	BIRDS	CRANE, WHOOPING	Grus americana.	
TARRANT	BIRDS	PLOVER, PIPING	+haradrius melodus.	
THROCKMORTON	BIRDS	CRANE, WHOOPING	Grus americana.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
TOM GREEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata.	
TRAVIS	AMPHIBIANS	SALAMANDER, BARTON SPRINGS	EURYCEA SOSORUM.	
	BIRDS	CRANE, WHOOPING	Grus americana.	
TRINITY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
TYLER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
UPSHUR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
UVALDE	PLANTS	SNOWBELLS, TEXAS	Styrax texana.	
VAL VERDE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
	PLANTS	SNOWBELLS, TEXAS	Styrax texana.	
VICTORIA	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
		PELICAN, BROWN	Pelicanus occidentalis.	
WALKER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	
WALLER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus.	

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
WASHINGTON	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii.	
WEBB	BIRDS	TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
WHARTON	BIRDS	CRANE, WHOOPING	Grus americana.	
		EAGLE, BALD	Haliaeetus leucocephalus.	
WHEELER	BIRDS	CRANE, WHOOPING	Grus americana.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
WICHITA	BIRDS	CRANE, WHOOPING	Grus americana.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
WILBARGER	BIRDS	CRANE, WHOOPING	Grus americana.	
		TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
WILLACY	BIRDS	CURLEW, ESKIMO	Numenius borealis.	
		PELICAN, BROWN	Pelicanus occidentalis.	
		PLOVER, PIPING	+haradrius melodus.	
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas.	
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata.	
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SE.	Lepidochelys kempii.	
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea.	
		TURTLE, LOGGERHEAD SEA	Caretta caretta.	
WILLIAMSON	BIRDS	CRANE, WHOOPING	Grus americana.	
WILSON	BIRDS	CRANE, WHOOPING	Grus americana.	
WISE	BIRDS	CRANE, WHOOPING	Grus americana.	
YOUNG	BIRDS	CRANE, WHOOPING	Grus americana.	
ZAPATA	BIRDS	TERN, INTERIOR (POPULATION LEAST).	Sterna antillarum.	
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum.	
UTAH				
BEAVER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	MILK-VETCH, RYDBERG	ASTRAGALUS PERIANUS	IR
BOX ELDER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	IR
CACHE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
CARBON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		CHUB, HUMPBACK	Gila cypha	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
DAGGETT	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
DAVIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
DUCHESNE	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
EMERY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		CHUB, HUMPBACK	Gila cypha	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
	PLANTS	CYCLADENIA, JONES	Cycladenia humilis var. jonesii	IR
GARFIELD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		CHUB, HUMPBACK	Gila cypha	IR

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
	PLANTS	BUTTERCUP, AUTUMN	Ranunculus acriformis var. aestiva	IR
		CYCLADENIA, JONES	Cycladenia humilis var. jonesii	IR
		LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
		MILK-VETCH, RYDBERG	ASTRAGALUS PERIANUS	IR
GRAND	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		CHUB, HUMPBACK	Gila cypha	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
	PLANTS	CYCLADENIA, JONES	Cycladenia humilis var. jonesii	IR
IRON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	MILK-VETCH, RYDBERG	ASTRAGALUS PERIANUS	IR
JUAB	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
KANE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
	PLANTS	CYCLADENIA, JONES	Cycladenia humilis var. jonesii	IR
	SNAILS	AMBERSNAIL, KANAB	OXYLOMA HAYDENI KANABENSIS	IR
MILLARD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
MORGAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
PIUTE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	MILK-VETCH, RYDBERG	ASTRAGALUS PERIANUS	IR
RICH	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
SALT LAKE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
SAN JUAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		CHUB, HUMPBACK	Gila cypha	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
	PLANTS	SEDGE, NAVAJO	Carex specuicola	IR
SANPETE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
SEVIER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	MILK-VETCH, RYDBERG	ASTRAGALUS PERIANUS	IR
SUMMIT	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
TOOELE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
UINTAH	BIRDS	CRANE, WHOOPING	Grus americana	IR
		EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		CHUB, HUMPBACK	Gila cypha	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
UTAH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	SUCKER, JUNE	Chasmistes liorus	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
WASATCH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, VIRGIN RIVER	Gila robusta seminuda	IR
		WOUNDFIN	Plagopterus argentissimus	IR
WAYNE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	FISHES	CHUB, BONYTAIL	Gila elegans	IR
		CHUB, HUMPBACK	Gila cypha	IR
		SQUAWFISH, COLORADO	Ptychocheilus lucius	IR
		SUCKER, RAZORBACK	XYRAUCHEN TEXANUS	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
WEBER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	IR
VERMONT				
ADDISON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
BENNINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
CALEDONIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
CHITTENDEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F

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State/County	Group name	Inventory name	Scientific name	IR/FF*
ESSEX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
FRANKLIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
GRAND ISLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
LAMOILLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
ORANGE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
ORLEANS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
RUTLAND	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
WINDHAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
	PLANTS	BULRUSH, NORTHEASTERN (=BARBED BRIS.	Scirpus ancistrochaetus	IR,F
WINDSOR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,F
	CLAMS	MUSSEL, DWARF WEDGE	Alasmidonta heterodon	IR,F
	PLANTS	MILK-VETCH, JESUP'S	Astragalus robbinsii var. jesupi	IR,F
WASHINGTON				
ADAMS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
ASOTIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	ONCORHYNCHUS TSHAWYTSCHA	IR,FF
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
BENTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
CHELAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
CLALLAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
		PELICAN, BROWN	Pelicanus occidentalis	IR,FF
CLARK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
	PLANTS	HOWELLIA, WATER	HOWELLIA AQUATILIS	IR,FF
COLUMBIA	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER.	ONCORHYNCHUS TSHAWYTSCHA	IR,FF
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
COWLITZ	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
	PLANTS	CHECKER-MALLOW, NELSON'S	SIDALCEA NELSONIANA	IR,FF
DOUGLAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
FERRY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
FRANKLIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	ONCORHYNCHUS TSHAWYTSCHA	IR,FF
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
GARFIELD	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	ONCORHYNCHUS TSHAWYTSCHA	IR,FF
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
GRANT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
GRAYS HARBOR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
		PELICAN, BROWN	Pelicanus occidentalis	IR,FF
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR,FF
ISLAND	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
		PELICAN, BROWN	Pelicanus occidentalis	IR,FF
KING	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
KITSAP	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
KITTITAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
KLICKITAT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
LEWIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through March 31, 1995.]

State/County	Group name	Inventory name	Scientific name	IR/FF*
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
LINCOLN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
MASON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	PLANTS	HOWELLIA, WATER	HOWELLIA AQUATILIS	IR,FF
OKANOGAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
PACIFIC	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
		PELICAN, BROWN	Pelicanus occidentalis	IR,FF
		PLOVER, WESTERN SNOWY	CHARADRIUS ALEXANDRINUS NIVOSUS.	IR,FF
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
PEND OREILLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
PIERCE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
SAN JUAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
SKAGIT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
SKAMANIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
SNOHOMISH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
SPOKANE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	PLANTS	HOWELLIA, WATER	HOWELLIA AQUATILIS	IR,FF
STEVENS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
THURSTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
	PLANTS	HOWELLIA, WATER	HOWELLIA AQUATILIS	IR,FF
WAHKIAKUM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
		PELICAN, BROWN	Pelicanus occidentalis	IR,FF
WALLA WALLA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER.	ONCORHYNCHUS TSHAWYTSCHA	IR,FF
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
WHATCOM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
		MURRELET, MARBLED	BRACHYRAMPHUS MARMORATUS	IR,FF
	FISHES	SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF
WHITMAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	ONCORHYNCHUS TSHAWYTSCHA	IR,FF
		SALMON, SNAKE RIVER SOCKEYE	ONCORHYNCHUS NERKA	IR,FF
YAKIMA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	IR,FF
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	IR,FF

* Permit is being issued for these areas only: IR=Federal Indian Reservations, FF=Federal Facilities.

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